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ARTICLE I. IN GENERAL

Sec. 28-1. Definitions.

The following words, terms and phrases, when used in articles I through VIII of this chapter, with the exception of section 28-201 pertaining to family and medical leave, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adverse action means an involuntary demotion, reduction in pay, or transfer, a suspension without pay, reduction in force, or a dismissal.

Allocation means the approval of a position by the appropriate authority based upon the needs of the county.

Anniversary date means an employee's original date of uninterrupted employment with the county in a permanent position.

Annual increment means a salary increase as determined by the applicable salary plan and the county's annual budget.

Applicant means one who applies for a vacant position and by completing and submitting an application for employment regardless of current employment status (e.g., a current county employee becomes an applicant when an application for another position is submitted).

Appointing authority means any board or official with the legal authority to make hiring decisions.

Board of commissioners means the local government unit charged with the legislative affairs of the county.

Class means a position or group of positions having similar duties and responsibilities and requiring similar qualifications, which can be properly designated by a single group indicative of the nature of work performed and similar salaries.

Compensatory time means time earned by an employee for work in excess of the workweek.

Close relationship means a mutually acceptable relationship, including dating, living together as man and wife, co-habitation, or other personal relationship between county employees.

County manager means the county manager, which is the highest level of supervision and highest administrative official of county government and who is appointed by the board of commissioners.

Demotion, involuntary means the reassignment of an employee to a position or a classification having a lower salary range than the position or the classification from which the reassignment is made due to performance or conduct problems.

Demotion, voluntary means when an employee requests a move to a position assigned a lower grade, and the move is mutually agreed between the employee and the County.

Director or department head means the highest level of supervision or top administrative official of a department of county government.

Downgrade means a change that results in a lower grade being assigned to a position based on duties, responsibilities, reorganization, or market surveys.

Flexible promotions: a temporary assignment made to a current county employee which is a promotion or a lead worker assignment. The assignment is made with the understanding if, up to six months from the date of assignment, if the change is not in the best interest of the employee then the employee may return to the former classification.

FLSA (Fair Labor Standards Act) means the federal Fair Labor Standards Act, which addresses exempt and nonexempt status of employees, and rules of compensatory time and/or overtime for extra hours worked by nonexempt employees.

Full-time equivalent (FTE) means the number of hours worked per annum in relationship to a full-time position. An employee appointed to a permanently established position who is regularly scheduled to work forty (40) hours or more per workweek, is paid on a salary basis, and is designated as full-time.

Grade means the numerical value assigned to a pay range.

Grievance means when certain specified matters of concern or dissatisfaction of an employee, allegedly arising from working conditions.

Harassment means any unwelcome comment or treatment made because of race, sex, creed, religion, national origin, age, color, or disability that creates a hostile work environment or circumstance. This term includes sexual harassment.

Hiring rate means the salary paid an employee when hired.

Hostile work environment means an environment which a reasonable person would find hostile or abusive and that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at several circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and how it interferes with an employee's work performance or working conditions.

Immediate family means wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson,

granddaughter, stepmother, stepfather, stepbrother, stepsister, persons living together in a close personal relationship or as otherwise approved by the department head.

Merit principle means a systematic and uniform method of personnel administration based on equal employment opportunity principles.

Part-Time means an hourly compensated employee or position to which an hourly compensated employee is assigned, which is regularly scheduled for less than forty (40) hours of work per workweek and/or less than 52 weeks per calendar or fiscal year.

Performance evaluation system means the system utilized to review an employee's performance.

Permanent employee means an employee, except those employed by the sheriff and the register of deeds, who has satisfactorily completed a probationary period, and has been approved for permanent status by his or her department head. If the employee hired is designated a trainee or is assigned to a "work against" position, the employee shall also satisfy the minimum education and work experience requirements of the position before attaining permanent status.

Permanent full-time position means a position that has been approved by the board of commissioners, the duties and responsibilities of which are required to be performed on a continuous basis, normally requiring full-time employment of an individual.

Permanent part-time position means a position that has been approved by the board of commissioners; the duties and responsibilities of which are normally to be performed in less than a regular work day and/or workweek.

Permanent position means a position that has been approved by the Board of County Commissioners and which has recurring duties and responsibilities of continuing duration. All rights and privileges of employment as set forth in this chapter attach to such position unless the section specifies otherwise.

Permanent status means an employee, except those employed by the sheriff and the register of deeds, who shall attain permanent status when the employee has worked the required nine month probationary period or condition of transfer. If a trainee, the employee shall also satisfy the minimum education and work experience requirements of the position before attaining permanent status. Permanent status is waived when an employee who has reached permanent status is transferred, promoted or demoted to a position for which he must be a trainee.

Position means a group of duties and responsibilities assigned to a department based upon the needs of the county which may be performed by one or more employees normally not to exceed the full-time equivalent (FTE) of the position.

Position classification plan means a plan approved by the Board of Commissioners that assigns classes or positions to the appropriate pay grade.

Prior service credit means a system for determination for benefits based on equivalent prior service to the county; or for employment based on service to other organizations.

Probationary employee is an individual appointed to a permanent position who has served less than nine (9) months in the position, or who has otherwise not completed specified prerequisites for attaining permanent status. This may be based on initial hire, promotion, or transfer into another position.

Promotion means the reassignment of an employee to a position or classification in the County having a higher salary range than the position from which the reassignment is made.

Quid pro quo harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Reassignment means an intradepartmental change of duty assignment within the same grade and based upon needs of the department in the discretion of the department head.

Reclassification means a change in a position from one class to another based on changes in the complexity and responsibility of and the skill required to perform the essential functions of the position.

Reduction in force means the abolishment of or reduction of all or some portion of a position based on needs of the organization, work load, and availability of funding.

Reorganization means, due to changes in the organizational needs of a department, the duties and responsibilities or technological requirements of a position may be reclassified, and a position may be abolished in full or in part, or created according to county policy.

Retaliation means any form of adverse treatment that occurs because of reaction to a lawful and protected action by an employee.

Salary grade means that all positions that are sufficiently comparable to warrant one range of pay rates.

Salary plan means the salary range assigned to each salary grade.

Salary plan revision means the uniform raising or lowering of salary ranges within the salary plan.

Salary range means the salary assigned to each grade of the salary plan, including trainee, minimum, and maximum annual salaries.

Salary schedule means a listing by grade and step of all the approved salary ranges authorized by the board of commissioners for various positions of the county.

Service credit means time reflected for certain benefits that includes current hire date plus credit for previous service to Catawba County government.

Sexual harassment means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when such conduct is made a term or condition of an individual's employment or a rejection of such conduct by an employee is used as a basis for future employment decisions affecting such individual or when such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment for an employee or group of employees.

Temporary employee means an individual appointed to serve in a position for a definite duration.

Temporary position means a position for which the duties and responsibilities are required based upon the needs of the county for a specified period of time.

Time-limited position means a position, which may or may not be permanent, approved for a specified period of time, with a defined ending date.

Trainee means an employee who does not meet minimum education or experience requirements for a position but can within a specified period meet the minimum requirements.

Transfer means the reassignment of an employee from one position or department to another.

Unlawful workplace harassment means unwelcome or unsolicited comments or conduct based upon race, sex, creed, religion, national origin, age, color, or disabling condition as defined by N.C.G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo. This term includes sexual harassment.

Upgrade means a change that results in a higher grade being assigned to a position with the same job responsibility.

Work against means when an employee does not meet minimum requirements of the position and there are lower levels in the series of that classification, the employee may be assigned to the level of the series for which he is qualified and may "work against" the experience and educational requirements of the higher level position in the series.

Sec. 28-2. Merit principle.

All appointments and promotions of county employees shall be made solely on the basis of merit, fitness and occupational qualifications without regard to politics, sex, race, color, age, non-disqualifying disability, religious affiliation or national origin. The county follows generally accepted classification principles that guarantee that equal opportunities are provided for all positions of equal responsibility.

Sec. 28-3. Responsibility of board of commissioners.

The board of commissioners shall establish personnel policies, approve the pay plan, approve all new positions and new classifications, and shall make and confirm appointments when required by law.

Sec. 28-4. Responsibility of county manager.

The county manager shall be responsible to the board of commissioners for the administration of the personnel program and shall have full responsibility for all personnel functions.

Sec. 28-5. Responsibility of the personnel director.

The county manager shall appoint a personnel director who shall assist in the preparation, maintenance and administration of the position classification plan and the pay plan, and perform such other duties as the manager shall require.

Sec. 28-6. Applicability.

This chapter shall be applicable to the following classes of employees:

- (1) Employees of the sheriff and register of deeds serve at the will of those officials. The sheriff and register of deeds shall be subject to the provisions of this chapter, except that they shall have the right to hire and discharge employees in their respective departments under the authority of G.S. 153A-103.
- (2) Employees of the department of human services agencies (social services, mental health and public health) shall be subject to the provisions of this chapter, except that they shall have the additional requirements set forth by the state under G.S. 126-1 et seq.
- (3) Employees of the cooperative extension service whose annual compensation is supplemented by state and federal funds shall be subject to all sections of this chapter, except those provisions which conflict with that memorandum of understanding (MOU) executed between the county and the state cooperative extension service.
- (4) Employment by all other employees of county government is governed by this chapter.

Secs. 28-7 –28.35. Reserved.

ARTICLE. II EQUAL EMPLOYMENT OPPORTUNITY POLICY

Sec. 28-36. Policy statement.

- (a) The equal employment opportunity plan reaffirms the active commitment of the county to equal opportunity employment. It is the purpose of this plan to set forth a positive policy of equal opportunity in all county programs and employment. The county voluntarily executes this plan in compliance with federal, state, and local laws; executive orders; and regulations prohibiting discrimination in employment practices with regard to race, color, religion, sex, national origin, disability, age, or political affiliation. It is also done to assist in the identification and elimination of any employment practice which may result in treatment that is disparate or that has a discriminating effect.
- (b) The county manager shall have overall responsibility for the administration of this equal employment opportunity program. The personnel director is charged with the day-to-day implementation, direction, and continuous evaluation. The personnel director shall present periodic reports on the progress of the program to the county manager. Additionally, all management and supervisory personnel shall be equally responsible for compliance with the equal employment opportunity plan.
- (c) The equal employment opportunity plan embraces all positions in county government.

Sec. 28-37. Responsibilities.

- (a) The county manager shall be ultimately responsible for the achievement of equal opportunity employment and for the administration of the equal employment opportunity plan. He shall formulate and disseminate directives to department heads to develop goals and assign responsibility for the day-to-day operation and implementation of the plan. The county manager shall inform the board of commissioners on the progress of the plan.
- (b) The personnel director shall be responsible for the following:
 - (1) The day-to-day operation and implementation of the plan, including the development and updating of the written plan.
 - (2) The general direction and/or coordination of the program as established under the plan.
 - (3) The collection, analysis, preparation and dissemination of required reports.
 - (4) Assistance to supervisory personnel in meeting their responsibilities.
 - (5) Establishment of contacts in the community which specialize in recruitment of protected classes.
 - (6) The maintenance of all central personnel records in a manner consistent with applicable employment practices, laws and other requirements of the plan.
 - (7) The development and maintenance of all personnel directives consistent with the plan and applicable laws.
 - (8) Periodic review of the county's classification system, benefits, leave policies, training and career development programs, and other employment practices to ensure that all practices conform with the plan.
- (c) Department directors shall be responsible for working with the personnel director to implement the equal employment opportunity plan within their particular departments to:
 - (1) Establish goals and objectives based on labor market data provided by the personnel director and available job openings;
 - (2) Provide leadership and support in the area of equal opportunity employment; and
 - (3) Endeavor to maintain a positive attitude among employees.
- (d) Supervisory staff shall be responsible for day-to-day compliance with the policies and procedures established under this plan and shall endeavor to maintain a positive attitude among employees.

Sec. 28-38 Goals and objectives.

- (a) The goal of the equal employment opportunity policy is to:
 - (1) Prevent discrimination in employment practices with regard to race, color, religion, sex, national origin, non-disqualifying disability, age, or political affiliation; and
 - (2) Identify and eliminate any employment practice which may result in treatment that is disparate or that has a discriminating effect.

- (b) In order to reach these goals, the following policies are reiterated and/or established:
 - (1) The personnel department shall maintain records and statistical information in support of the equal employment opportunity plan to monitor the program. The information shall include the following:
 - a. Applicant flow by race and/or national origin, sex, and age;
 - b. New employees by race and/or national origin, sex, and age;
 - c. Transfers and promotions by race and/or national origin, sex, and age; and
 - d. Voluntary and involuntary terminations by race and national origin, sex, and age.
 - (2) Disability information will be used when available. This information as well as age and race and/or national origin may not be provided by applicants or employees.
- (c) The personnel director shall annually prepare an equal employment opportunity report which reflects race and/or national origin and gender of employees by job categories.

Sec. 28-39. Policy dissemination.

- (a) *Notice.* Each county employee and citizen shall be informed of the county's equal employment opportunity policy and management's commitment to that policy through the following means:
 - (1) *Internal.*
 - a. All departments, as well as individuals who request it, will receive a copy of the equal employment opportunity plan.
 - b. Every employee with recruitment, promotion, or supervisory responsibilities will communicate the county's policy to each employee or applicant under his direction.
 - c. The equal employment opportunity policy statement will be posted on bulletin boards in all county buildings and in the personnel department.
 - d. The equal employment opportunity policy and plan will be discussed as part of the employee orientation and all training programs.
 - (2) *External.*
 - a. Advertisements will be communicated to the local news media, employment training institutions, community and minority leaders, minority universities and other recruitment sources that the personnel director deems appropriate.
 - b. All employment advertisements and correspondence will contain the statement that the county is an "equal opportunity employer."
 - c. All subcontractors, vendors, and suppliers will be notified of the equal employment opportunity plan to solicit appropriate supportive action.

- (b) *Monitoring.* A review of current employment practices is essential to identify barriers to equal employment opportunity. The personnel director shall continually monitor the employment process and adjust procedures to ensure that barriers do not exist. The following aspects of the personnel system shall be specifically addressed:

(1) *Recruitment.*

- a. Each department will maintain a coordinated recruitment program with the county personnel department.
- b. Pre-employment policies and procedures shall be based on essential functions of the position.
- c. Vacancies which will be filled from within the county work force will be posted via email, Intranet, and posted in areas known to employees. All vacancies for which outside applicants are considered will be listed with the local job service office of the employment security commission.
- d. Job announcements will be readable, realistic, and accurate in describing minimum requirements for the job, essential functions, physical requirements, job title, salary and application process.
- e. Efforts will be directed toward the local news media, employment training institutions, community minority leaders, minority universities, and other recruitment sources which have contact or represent the interest of other protected classes that the personnel director deems appropriate.

(2) *Selection and placement.*

- a. Selection policies and procedures are designed to ensure objectivity and prohibit discrimination. The personnel department will play a major role in this process. The personnel director shall train those employees involved with application, interview, and selection phases in techniques to accurately determine the job-related qualifications of each applicant. The personnel director shall monitor the process to identify selection techniques which may be discriminatory.
- b. The following steps will ensure equality and objectivity in the selection of the best qualified applicant:
 1. Provision of reasonable accommodation of disabled applicants.
 2. Removal of all nonjob-related and discriminatory information from the application form.
 3. Review of screening procedures, such as tests and interviews, to ensure objectivity and job relatedness.
 4. Establishment of a documentation procedure for selections and rejections.
- c. The personnel director will monitor placement policies and work assignments of all new employees. Work assignments will be meaningful, contribute to the attainment of the organization's goals, and offer

opportunities for career advancement to the maximum extent possible.

(3) *Promotions and upward mobility.*

- a. All county employees shall receive equal consideration for promotions, transfers, reclassification, salary increases and merits.
- b. All employees shall be encouraged and be permitted to apply for transfers and promotions to enhance their career development and upward mobility. Those employees who apply and are not selected shall be so informed.
- c. The personnel director shall evaluate classification specifications for duties and salary to ensure job relatedness, as necessary adjustments will be made when duties and responsibilities change. The personnel director shall also examine performance rating measures to identify areas where training may be required or where discrimination may exist.

(4) *Personnel actions and benefits.*

- a. All privileges, benefits, and conditions of employment apply to all county employees. The personnel director shall maintain a constant review of all personnel procedures to ensure compliance with this policy.
- b. All employees shall be informed of the grievance procedures in section 28-170. Strict compliance with these procedures will promote rapid, fair, and reprisal-free mediation of problems or complaints. These procedures and policies are published and maintained separately in article V of this chapter and are available to employees in orientation, at the time of personnel actions and in all county departments. The personnel director shall provide consultation to employees and supervisors regarding these procedures.
- c. The personnel director shall update all supervisory and management staff with information on new laws, programs, and policies pertaining to equal employment opportunity. Each supervisor shall inform and explain these programs and policies to all employees.
- d. The personnel director shall periodically review the benefits package to ensure that all categories of employee benefits are available to all employees on an equal basis unless otherwise required by law.

Sec. 28-40. Program evaluation

- (a) A comprehensive evaluation of the county's equal employment opportunity efforts is essential to target areas for improvement. The personnel director shall prepare an annual report on the program, recommending changes to the county manager and management staff. With this report, the personnel director shall submit a review of county and departmental equal employment opportunity goals and a listing of problems, accomplishments, and proposed future actions to ensure compliance with the planned objectives.
- (b) The personnel department shall continuously maintain records and statistical information

to monitor compliance.

- (c) The personnel department shall conduct exit interviews preceding or following all terminations and transfers between departments. Periodically, the personnel director shall provide a collective report reflecting comments from the interviews to assist the appropriate staff in the administration of the plan.
- (d) The county manager and personnel director shall hold periodic meetings with employees to obtain feedback and suggestions on how to improve the county's compliance with the plan.

Secs. 28-41--28-65. Reserved.

ARTICLE III. CLASSIFICATION PLAN

Sec. 28-66. Coverage.

The position classification plan on file in the personnel department shall be the classification plan of the county. This classification plan shall include all classes of positions.

Sec. 28-67. Allocation of positions.

The county manager shall allocate each position covered by the classification plan to its appropriate class in the plan. The director of personnel shall recommend for the County manager's approval allocation of each position covered by the classification plan to its appropriate class.

Sec. 28-68. Administration of classification plan.

(1) The county manager shall be responsible for administration and maintenance of the position classification plan adopted in this article. Department heads shall be responsible for bringing to the attention of the personnel director any material changes in the nature of the duties, responsibilities, working conditions, or other factors affecting the classification of any existing position. Following the receipt of such information, the personnel director shall restudy the position and report findings and recommendations to the manager.

(2) New positions shall be established upon recommendation of the county manager with the approval of the board of commissioners. The county manager may (1) assign the new position to the appropriate class within the existing classification plan or (2) establish a new class to which the new position may be assigned, amending the position classification plan accordingly. If the county manager finds that a substantial change has occurred in the duties and responsibilities of an existing position, he shall direct that the existing class specification be revised, reallocate the position to an appropriate class within an existing classification plan, or establish a new class to which the position shall be assigned.

Sec. 28-69. Amendments to positions.

Classes of positions shall be added to and deleted from the position classification plan by the board of commissioners after consideration the recommendation of the county manager or upon consideration of budgetary factors.

Sec. 28-70. Classification of new positions.

The personnel director, with the approval of the county manager, shall be responsible for studying and making recommendations for the allocations of new positions to the existing classes or to new classes of positions in the county's service.

Sec. 28-71. Amendment to classification plan.

The county manager is authorized to amend the classification plan by adding, changing, or deleting classes of positions and salary grades based on internal analyses and market surveys within the authorized budget allocation. The manager shall advise the board of commissioners of such amendments.

Secs. 28-72 —28-105. Reserved.

ARTICLE IV. WAGE AND SALARY ADMINISTRATION*

Sec. 28-. 106. Maintenance of salary plan.

The county manager shall be responsible for the administration of the salary plan. The salary plan is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private and public sectors, to changes in the cost of living, to financial conditions of the county and other relevant factors. To this end the county manager shall, from time to time, make comparative studies of all factors affecting the level of salary ranges and shall recommend to the board of commissioners such changes he deems appropriate.

- (a) Each year, prior to the annual budget process, the manager shall review the status of the salary plan and consider any amendments necessary to maintain a current salary structure.
- (b) The county manager shall make cost-of- living recommendations to the board of commissioners based upon an annual study of local economic conditions and the financial state of county government.
- (c) Each year the county personnel director will conduct a one-third pay study to review pay and classification of select county positions. A recommendation will be made to the county manager. Changes will be implemented subject to available funds.

Sec. 28-. 107. Administration of the salary plan.

The following six (6) principles shall govern the transition to a new salary plan:

- (1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- (2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their classes; unless the employee is a trainee or work against where the conditions established will prevail. These conditions may include any established by the Office of State Personnel.
- (3) All employees being paid at a rate below the maximum rate, but above the minimum rate established for their respective classes, shall be paid at a rate within the salary range.
- (4) All employees being paid at a rate above the maximum rate established for their respective classes shall remain at their present salary as long as the maximum rate is equal to or below the employees' present salary.
- (5) The classification and salary plan shall meet the requirements of the state competitive system for the county employees subject to that system.
- (6) All employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classifications, except employees in a "trainee" or "work against" status, or employees whose present salary is above the established maximum rate.

Sec. 28-108. Hiring or starting salary.

Each county employee, except those employees with trainee/work against status, shall be paid at least the minimum salary of the range which has been established for the classification of the position.

Sec. 28-109. Salary of trainee/work against.

If an applicant for county employment does not meet the minimum requirements for the position, but is deemed to be the most suitable applicant, the department head may appoint the applicant as a “trainee” or “work against” as determined by the personnel director and consistent with the provisions of the salary plan. The employee shall retain such status until the personnel department determines that the requisite qualifications of the position are met. Approved leave without pay shall not count as time worked toward meeting the minimum requirements for the position. A trainee shall not attain permanent status until he has met the minimum job qualifications and education requirements and as such is not eligible for annual increments until permanent status is attained.

Sec. 28-110. Salary of part-time employees.

The hourly rate paid to county employees who are not permanent full-time employees is calculated by converting the annual salary of the comparable permanent position to an hourly rate by dividing the annual salary by 2,080 work hours.

Sec. 28-111. Pay periods.

- (a) All county employees shall be paid bi-weekly (every two weeks) with two weeks in arrears.
- (b) All hourly paid employees shall be paid on the last working day of each month for service through the end of the previous month.
- (c) The scheduled payroll is every other Friday; if the scheduled payday is a holiday, employees will be paid the last working day prior to the said holiday. If the payday falls on a holiday, employees shall be paid on or before the last working day prior thereto.

Sec. 28-112. Salary adjustments.

The personnel director shall be responsible for implementing all salary adjustments for county employees. Employees shall be advised of all salary changes. Salary adjustments may occur as a result of the following:

(1)*Cost-of-living increase.* The board of commissioners has the authority to grant all employees a cost-of-living increase each fiscal year.

(2)*Annual increment.* An annual increment may be funded in the annual budget and, if awarded, based on the annual performance review. This section also applies to employees of the sheriff and register of deeds. Annual increments are effective on the first day of the month following the anniversary date. All documentation must be received before the payroll deadline date of the month in which the annual increment is due. When an employee's annual salary is at or near the maximum of the pay grade, the employee shall receive the portion of the annual increment that exceeds the maximum pay of the pay grade as a one-time lump sum payment.

(3) *Below standard rating.* An employee whose performance is rated below standard shall receive a 5% (five percent) decrease in salary until such time as the performance is rated standard or above. In order to allow time for any grievance that may be filed and the process to take place, the normal payroll deadline process in place may be waived.

(4) *Demotion.* An employee shall receive a decrease in salary due to a demotion, either voluntary or involuntary, to a lower salary grade as determined by the department head subject to review and approval by the personnel director and the county manager.

(5) *Promotion.* The salary of an employee promoted to a vacant position shall be adjusted within the range, provided the employee meets minimum requirements of the position.

(6) *Negotiated increases.* Other salary increases may be granted from time to time with the approval of the county manager. The county manager may increase the annual salary of an employee when the employee's position is known to be one that is hard to fill or the market rate exceeds the current rate of pay. The salary increase may not exceed the maximum of the salary range.

(7) *Reclassification.* When a position is reclassified to a higher grade, the county manager has the discretion to adjust the salary upward, provided that the adjusted salary does not exceed the maximum of the new salary range, or to leave the salary unchanged except when the salary is below the minimum in which case the salary shall be brought up to the minimum of the new classification. When a position is reclassified to a lower class, the county manager has the discretion to reduce the salary to any salary within the range for the new grade or leave the salary unchanged.

(8) *Trainee/work against to full class.* When a trainee/work against meets the minimum requirements for the position (full class), the salary shall be adjusted upward to the minimum of the position's salary range unless otherwise negotiated at the time of hire. Approved leave without pay shall not count as time worked toward meeting the minimum requirements for the position.

(9) *Transfer.* The salary of an employee transferred to a vacant position may be adjusted within the range as negotiated between employer and employee.

(10) *Effective date.* Salary adjustments shall generally be effective on the date of the actual change. Annual increment increases will be effective the first day of the month after the anniversary month.

Sec. 28-113. Salary at separation.

The final scheduled payroll check for a county employee will be paid two (2) weeks in arrears. The final payment received by the employee will include annual leave, floating holiday time, and overtime amounts due, less any pay previously advanced, and will be paid in the payroll which occurs two weeks following the final regular payroll. An employee who separates employment with the county will receive a reduction in final pay if there is a negative balance in sick leave, floating holiday time or annual leave.

Sec. 28.114. Deductions from salary.

Deductions which are required by law shall be deducted from employees' pay and shall include the following:

(1) Federal income tax.

(2) State income tax.

(3) Social security.

(4) Local Government Employees' Retirement System, or Law Enforcement Officers' Benefit and Retirement Fund.

Other deductions which may be taken include United Way contributions, pay advance repayment, optional retirement plan contributions, insurance benefit payments and other voluntary deductions approved by the County.

Sec. 28-115. Overtime policy.

The county abides by all applicable sections of the Fair Labor Standards Act, as amended. Further details are provided in Secs. 28.156—28.161 of this chapter and through the personnel department.

Sec. 28-116. Leave without pay.

(a) The decision to grant leave without pay is solely in the discretion of the department head. Factors to be considered are necessity, duration of leave, workload, and other factors in the best interest of the county. Leave without pay may be granted to employees who have exhausted other forms of leave and do not qualify for leave under the Family and Medical Leave Act of 1993.

(b) *Leave without pay procedures.*

(1) The request for leave without pay must be made in writing in a timely fashion prior to the anticipated date.

(2) Accumulated annual leave must be exhausted before leave without pay may be granted.

(3) Accumulated sick leave must be exhausted before leave without pay may be granted in cases of illness where disability is not a factor.

(4) No floating holidays, annual or sick leave shall be earned during a period of leave without pay.

(5) An employee on leave without pay status shall be eligible for any continuation of allowable benefits by continuing to pay the employee's share of the cost and the employer's share if applicable and by making all employee and employer costs for such benefits as they become due.

(6) When circumstances arise or when conditions exist which cause a need to fill a position left vacant due to leave without pay, the employee in leave without pay status shall be notified of the need to fill the position and given an opportunity to

return to the position within one (1) week of such notice. If the employee on leave without pay status does not return within that week, the position shall become vacant.

(7) Failure on the part of the employee to report promptly at the expiration of the leave without pay, except for reasons submitted in advance to and approved by the department head, shall be considered a voluntary resignation.

Sec. 28-117. Merit awards.

(A) Merit award funds shall be designated by the board of commissioners and shall be allocated to all departments in a manner described by the county manager. Only employees in permanent, budgeted positions working a minimum of 20 hours per week are eligible to receive merit awards.

(b) Eligible employees may be granted lump sum merit awards for meritorious performance. Merit awards may be granted to employees whose salary falls anywhere within the assigned salary range under the following conditions:

(1) Lump sum merit awards may be given at any time during the fiscal year and should follow incidents or periods of exceptional or outstanding job performance.

(2) Lump sum merit awards may be granted in any monetary increment provided that the total amount does not exceed seven percent of the employee's salary in any one fiscal year.

(c) Merit awards shall be initiated at the departmental level upon recommendation of the department head. Such recommendations shall be accompanied by an explicit written justification setting forth the specific meritorious performance rewarded.

Sec. 28-118. Advance on wages.

There shall be no advance on wages.

Secs. 28-119—28-145. Reserved.

**ARTICLE V. EMPLOYMENT
COMPENSATION, AND EMPLOYEE PERFORMANCE**

Sec. 28-146. Applicability.

This article shall be applicable to all employees, except the requirements for the employees specifically exempted in Section 28-6.

Sec. 28-147. Statement of equal employment opportunity.

It is the policy of Catawba County to maintain a systematic, consistent recruitment program, to promote equal employment opportunities, and to identify and attract the most qualified applicants for employment with the county. This policy is achieved by announcing all position vacancies, and by evaluating all applicants using the same criteria. Personnel decisions are made without regard to race, color, religion, sex, national origin, political affiliation, nondisqualifying disability or age.

Sec. 28-148. Recruitment requirements.

(a) The personnel director shall be responsible for publicizing opportunities and recruiting qualified personnel for all vacant positions authorized by the operating budget of the departments in the county government, including departments of human resources. The personnel director may also recruit qualified personnel as requested by and for the offices of sheriff and register of deeds. The personnel department shall be responsible for maintenance of permanent records of all position vacancy announcements, including posting and closing dates, all optional referral sources used in the recruitment process, and the pool of applicants considered for each vacancy. The applicant pool data for each position shall include EEO-4 forms, and interview information.

(b) Each department head shall be responsible for advising the personnel director of anticipated or current vacancies in authorized budgeted positions for the department.

(c) External advertisement. Vacant positions to be filled will be publicized by the county through the local employment security commission office, county departments and the personnel department and through other methods as determined appropriate for the position in order to permit an open opportunity for all interested employees and applicants to apply.

(d) Internal advertisement. The personnel director may determine that a specific vacancy has qualified internal candidates, and the vacancy shall be advertised internally for a period of at least five days and shall be posted throughout the county government organization. If a suitable candidate is not found within the organization, then the position will be advertised externally.

(e) Applicants will be considered on the basis of their qualifications and suitability for the position, including, but not limited to, fitness for duty, relative ability, knowledge and skills; educational background; and any special licenses or certifications which may be required. All applicants considered for employment or promotion shall meet the qualification standards established by the class specifications relating to the position to which appointment is being considered.

All applications must be made through the personnel department.

All candidates for employment must hold at least a high school diploma or GED.

(f) Employment preference shall be given to veterans, widows of veterans, and spouses of disabled veterans. Eligible persons are citizens who served the state or the United States honorably in any of the armed services.

(g) Departments shall develop, use, and document, on a consistent basis, a selection process approved by the personnel director that best suits the county's needs in filling positions within each agency or department, and which explains the reason for selection decisions. All selection methods developed and utilized by the department head shall be based on job requirements. The selection of applicants will be based upon a relative consideration of their qualifications for the position to be filled. Advantage will be given to applicants determined to be best qualified. Department heads must reasonably document hiring decisions to verify the basis of the selection.

(h) Consideration shall be given to "trainee" appointments when there is an absence of qualified applicants from which to make a selection. In this instance, if the deficiencies

may be eliminated through orientation and on-the-job training, the employee is designated as a trainee.

When qualified applicants are unavailable and there is no trainee provision for the vacant classification, an appointment may be made below the level of the regular classification in a "work-against" appointment, allowing the appointee an opportunity to gain the qualifications needed for full class through on the job experience. The appointee must meet the minimum education and experience standard of the class to which the appointee was initially appointed. A work-against appointment may not be made when applicants are available who meet the education, experience and other conditions of employment requirements for the full class of the position in question.

(i) The applicant deemed most qualified will be notified of the selection and a conditional offer of employment as established in Sec. 28-153 will be issued by the department head. The documentation of offer and acceptance shall be forwarded to the personnel department where it shall be placed in the official personnel file.

Sec. 28-149. Eligibility for employment.

(a) *Constitutional guarantees.* No county employee shall be required to belong to any particular political party as a condition of employment; nor shall race, age, sex, color, religion, creed, non-disqualifying disability or national origin be used as a qualifying standard for employment.

(b) *Citizenship and alien registration.* All county employees shall be citizens of the United States, or legally eligible for employment in the United States.

(c) *Employment of relatives or persons involved in close, personal relationships.* The employment of relatives within the same department or unit/section of a department at the same time is to be avoided unless significant recruitment difficulties exist. If there are fewer than three other eligible applicants for a vacancy and it is necessary for relatives to be considered for employment, or if two individuals are already employed and marry, the following will apply:

(1) Two (2) members of an immediate family or two (2) persons living together in a close relationship, shall not be employed within the same department or unit/section of a department if such employment will result in one supervising the other, or where one member occupies a position which has influence over the other's employment, promotion, salary administration and other related management or personnel considerations.

Exceptions shall be made where the nature of the position requires a marital couple.

(2) It is not the intent or purpose of subsection (c) of this section to limit the opportunities of any employee who is closely related to another, but to prevent persons with close personal relationships from having a supervisory relationship, influence over the employment considerations, or authority over the other.

(3) However, for a transfer, promotion, demotion, or other personnel transactions wherein a conflicting situation is created, it is incumbent upon the department head, in consultation with the personnel director, to rectify such a situation within thirty (30) days, preferably through transfer. This 30-day limitation may be waived by the county manager provided the department head demonstrates good cause in the request for such a waiver.

(4) Termination of an employee under these conditions should be avoided if at all possible. Exceptions shall be made where the nature of the position requires a marital couple.

(d) *Sheriff and register of deeds.* As referenced in G.S. 153A-103, the board of commissioners must approve the appointment of a relative of the sheriff or register of deeds who is related by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of moral turpitude. Approval of the board of commissioners is not required for the reappointment or continued appointment of a near relative of a sheriff or a register of deeds who was not related to the appointing officer at the time of initial appointment.

(e) *Minimum age.* The minimum employment age is eighteen (18) years of age. Law enforcement officers must be at least twenty-one (21) years of age.

(f) *Residency.* Department heads are required to reside within the Catawba County limits. An applicant for a department head position, or an employee promoted to a department head position, will be required to move into the county limits within a reasonable period of time.

Sec. 28-150. Appointment of department directors and heads.

The county manager shall make all appointments of department directors or heads under his direction, except those elected or appointed by the board of commissioners or other boards.

Sec. 28-151. Transfers.

If a vacancy occurs and an employee wishes to be considered for transfer to the vacant position, a written request and application must be forwarded to the Personnel department during the recruitment period for the position. All normal conditions of recruitment shall apply.

A condition of a transfer from one department to another may include a new probationary period of up to six months. If the employee is on probation from the initial hire date, and transferring from one department to another, the probationary period may be extended.

Sec. 28-152. Flexible Promotions. The county wants to create every opportunity to make promotional opportunities available to current employees. However, the county recognizes there may be situations where the employee or the county may decide the promotion was not in the best interest of the employee.

All requirements of recruitment and State Personnel will apply, including the grievance procedure.

Therefore, the flexible promotions policy will allow the following:

- a. Flexible promotions/lead worker assignments will include a six-month evaluation time to allow both the employee and the department head to determine the assignment is in the best interest of the employee;
- b. Flexible promotions and assignments require the classification plan to be flexible as well. Personnel will, with approval of the county manager, reclassify the position the employee holds to the new assignment. If the promotion/assignment is determined not to be in the best interest of the employee, the classification will be changed to the former classification.
- c. When an employee is assigned to a flexible promotion/lead worker assignment, another person may be assigned to perform the work of the employee serving a temporary or

flexible assignment. When this assignment is made the employee is not adversely affected if the employee serving in a flexible promotion/lead worker assignment returns to the former classification.

- d. Departments must be able to accommodate these changes within their department when flexible promotions/lead worker assignments are determined not to work in the best interest of the employee.

Sec. 28-153. Conditional offer of employment.

In order to protect citizens of the county and their properties, the procedures in this subsection are established on applicants for all positions in county government.

- (1) The personnel director shall conduct an investigation of any final candidate for a county government position, and it shall be a precondition of employment that an applicant for a position shall, upon request, provide finger prints and all other necessary personal identification, including birth certificate, social security number and drivers license, if available, so that the sheriff may cause a thorough search to be made of local and state criminal records to determine if the applicant has a history of criminal convictions.
- (2) The sheriff shall provide the findings made by the use of the PIN to the personnel director, provided that all necessary agreements with the state bureau of investigation have been executed.
- (3) An evaluation of any crime for purposes of employment will take into account the nature and the circumstances of the offense and the timeframe of the offense as they relate to the essential job functions for the position applied.
- (4) No action to deny employment will be taken until the sheriff confirms the identity of the applicant by a match of the applicant's fingerprints to the state bureau of investigation and a certified true copy of the public record document is retrieved.
- (5) Employment with the county may require that additional tests or investigation be conducted, after making a conditional offer of employment, but before making a final offer of employment. Such additional tests or investigations are determined by the position being filled, and may include, but are not necessarily limited to the following: driving tests, credit checks, finger printing and criminal background checks.
- (6) Once an applicant is extended a conditional offer of employment, the applicant may be required to undergo an examination for physical, mental or emotional fitness for duty. The appropriate test will be based on bona fide occupational qualifications. Unsatisfactory results from such testing will result in the conditional offer of employment being withdrawn.
- (7) Applicants for full time, permanent jobs and applicants for part time or temporary positions involving the safety or security of the public or clients, or the provision of critical public service, and which applicants have been extended a conditional offer of employment, will be required to undergo alcohol and/or drug testing prior and a

medical screening with results deemed to met the requirements of the position prior to being made a final offer of employment.

- (8) The county reserves the right to consider all results and withdrawn any offer of conditional employment based on the results obtained.

Sec. 28-154. Employment categories.

All county employees are hired in one of the following categories:

(1) *Salaried employees.* Salaried employees are those employees who are entitled to all rights and benefits as set out in this chapter. Such employees are further categorized as follows:

(a) *Full-time employee.* An employee who is employed on a continuous, year-round basis and who is regularly scheduled to work at least forty (40) hours per week.

(b) *Four-fifths time employee.* An employee who is employed on a continuous, year-round basis and who is regularly scheduled to work thirty-two (32) hours per week.

(c) *Half-time employee.* A half-time employee is an employee who is employed on a continuous, year-round basis and who is scheduled to work twenty (20) hours per week.

(d) *Other employee.* An other employee is an employee who is hired to work a different schedule but whose scheduled hours do not fall within the recognized categories set forth in subsections (1) (b) and (1)(c) of this section.

(2) *Part-time employees.* Part time employees are those who serve at the will of the department head and are hired to work on an hourly basis. A part-time employee has only the benefits conferred by federal and state law, except where the county has exclusive jurisdiction.

Sec. 28-155. Resignation.

An employee who terminates employment with the county should submit written notification to the immediate supervisor at least three weeks prior to the intended date of separation. If, in the judgment of the department head, less than three (3) weeks notice will not adversely affect the department then less notice may be given. Department heads, division and program managers are required to provide four (4) weeks notice. The day the notice is submitted is not considered part of the notice period. If unapproved absences occur during the notice period, the notice shall be considered inadequate. If proper notice is not given, the employee waives payment for accrued annual leave. An employee who resigns to avoid dismissal shall be considered to have resigned for cause and is, therefore, ineligible for payment of accrued vacation.

An employee who is absent from work for three consecutive workdays without reporting to the supervisor the reasons for the absence shall be considered to have separated employment without notice and to have waived payment for accrued leave. An employee terminates employment by failing to report to work without giving written or verbal notice to his immediate supervisor or department head. Such failure shall be deemed a voluntary resignation from employment when

the employee is absent without approval for a period of at least three (3) consecutive workdays. Separation shall not occur until the department head has undertaken reasonable efforts to locate the employee.

Sec. 28-156. Fair labor standards.

(a) It is the policy of the County to comply with all the requirements of the Fair Labor Standards Act (FLSA), 29 U.S.C. section 201 et seq.

(b) As an integral part of job duties and responsibilities, every department head, supervisor or individual in a managing position is required to ensure compliance with the applicable standards, regulations and guidelines of this law.

(c) All employees are encouraged to discuss with their supervisor any employment practices which may be governed by the Fair Labor Standards Act. All prohibitions against retaliation and discrimination described in 29 U.S.C. 215 will be strictly adhered to by all agents of the county, including department heads, supervisors and individuals in management. There shall be no retaliation by the county against any employee who asserts a right or claim under the Fair Labor Standards Act.

(d) Non-Exempt Employees: It is County's policy to award compensatory time to non-exempt employees, pursuant to the Fair Labor Standards Act. Compensatory time is allowed off from work in lieu of overtime pay, unless another arrangement is made through the personnel department and with approval by the county manager as noted in subpart (G) of this section.

Overtime hours remaining on a non-exempt employee's leave record shall be compensated at the employee's current rate of pay upon separation.

- (1) All employees shall maintain true, complete and legible time records. All time worked shall be recorded to the nearest one-quarter hour and shall be submitted to the supervisor in a timely fashion. Supervisors shall arrange the work schedule of their employees to accomplish necessary work within an eight (8) hour workday or forty (40) hour workweek, except in those cases where additional hours of work are necessary. All overtime work shall be pre-approved by the supervisor except in emergency situations where prior approval cannot reasonably be obtained. In such event approval shall be obtained as soon as practicable after the overtime work has begun.
- (2) Management of compensatory time. Supervisors have the right and obligation to manage compensatory time. Therefore, supervisors are required to monitor time and have the right to require the employee to take time off to manage compensatory time hours.
- (3) FLSA overtime and FLSA straight time. When nonexempt employees are awarded compensatory time in lieu of overtime payments the compensatory time will be given at a rate of time and one-half for hours worked in excess of forty (40) in a workweek (FLSA overtime), and at a straight time rate for hours worked up to forty (40) hours in a workweek (FLSA straight time).
- (4) Maximum Accrual: Non-exempt employees may accrue up to a maximum of two hundred forty (240) hours of compensatory time. All hours earned in excess of 240 shall

be paid as overtime. The maximum allowable amount of compensatory hours that can be carried forward from one calendar year to the next is sixty (60) hours. All hours over 60 will be paid at the regular hourly rate. The following categories of employees shall be treated as set forth below:

(a) *Law enforcement personnel.* Law enforcement personnel shall be awarded compensatory time at time and one-half when the hours worked in a 14 day work period exceed 86 hours, and at straight time for hours worked in a workday over the regular schedule when total hours are not in excess of 86 hours in the 14 day period. Compensatory time hours may be accrued up to a maximum of 480 hours. All hours earned in excess of 480 hours shall be paid as overtime.

(b) *Emergency medical personnel.* Emergency medical personnel working a twelve (12) hour shift shall not be awarded compensatory time for all hours worked in excess of forty (40) hours per week but shall be paid overtime at a rate of time and one-half for all hours worked in excess of 40 in a workweek.

(4) Emergency leave requests made under this section shall be made by the employee and approved by the supervisor within thirty (30) minutes of the beginning of the workday or shift. Time under this section shall be exhausted prior to the approval of annual leave or leave without pay.

(5) Time under this section may be used in lieu of sick leave and floating holidays. An employee who has earned and properly credited compensatory time (FLSA straight time) during a workweek, but who becomes sick, may substitute that compensatory time on a time-for-time basis for sick leave.

(F) *Hours worked.* Hours worked is the time for which an employee is entitled for compensation under the FLSA. Compensation is required for the time an employee is required to be on duty, on the employer's premises, or at a prescribed workplace, and for the time the employee is suffered or permitted to work, whether or not requested to do so.

(1) Vacation, sick, educational leave hours, holiday leave and any other leave time will not be considered hours worked for FLSA purposes.

(2) If a nonexempt employee is required to work on a county designated holiday, the hours worked on that day will be paid at time and one-half, except for employees who are assigned floating holidays and EMS personnel.

(3) Floating holidays may be granted to employees who must work on the holiday due to the nature of their position and schedule. Floating holidays are not considered hours worked and are compensated at straight time.

(4) Training-related time, either to increase efficiency or as required by the employer, is counted as hours worked for purposes of calculating overtime. Time relating to training and educational seminars that are required by the state as a condition of practice of the profession are not considered work time and are not counted as hours worked for the purpose of calculating overtime.

(5) Time spent by an employee during the regular workday adjusting a grievance under the county grievance policy is considered hours worked for purposes of calculating overtime.

(6) All travel time which is required by the county other than the normal commuting time between home and job is considered hours worked for the purposes of calculating overtime.

(G) *Overtime payments.* Authorization for payment of overtime when the maximum compensatory time ceiling has not been reached shall be made in writing by the county manager or the manager's designee.

Standing authorizations. Employees or classes of employees may be granted standing authorization for overtime payments by written authorization of the county manager or the manager's designee.

On-call duty. Each department will establish its own method of compensation for on-call time. The policy must be in writing, approved by the Personnel department and the County manager, within the department's budget, and communicated to employees.

Overtime at separation. All accrued overtime hours shall be compensated at the average regular rate received by the employee during the last three years of employment or at the regular rate of pay upon any employee's separation, whichever is higher, consistent with regular payroll practices.

Employees shall not volunteer to work over-time without receiving compensation. All overtime work shall be pre-approved by the supervisor except in emergency situations where conditions are such that prior approval cannot be obtained, and in such event approval shall be obtained immediately subsequent to the emergency overtime worked.

Sec. 28-157. Compensatory time for FLSA exempt employees.

Employees exempt from FLSA provisions shall be compensated for compensatory time earned as specified below:

(A) Compensatory time shall be accrued on an hour-for-hour basis.

(B) Compensatory time shall be taken by an employee at the convenience of the department, in the sole discretion of the supervisor, at a time which will least obstruct the operation of the department. Emergency requests for use of time under this section shall be made by the employee within thirty (30) minutes of the beginning of the workday or shift. Supervisors are encouraged to approve the use of compensatory time within three months after it is earned if at all possible.

(C) Compensatory time may not be transferred to any other type of leave.

(D) An employee may substitute compensatory time on a time-for-time basis for sick or annual leave.

(E) Compensatory time is lost when an employee is separated from county service. The employee's separation date may not be moved forward in order to pay for compensatory time.

(F) In exceptional circumstances the county manager may authorize payment of compensatory time.

Sec. 28-158. Workweek.

The standard workweek shall be from 12:01 a.m. on Saturday through 12:00 midnight on Friday, unless an alternate schedule has been so designated by the personnel director.

Sec. 28-159. Work schedule. Employees are expected to work during all assigned periods exclusive of mealtimes.

Sec. 28-160. Work schedule recordkeeping. All employees are required to report a true and accurate record of hours worked.

Sec. 28-161. Overtime. Except in cases of emergency, employees are not to perform work at any time they are not scheduled to work, unless they receive prior approval from their immediate supervisor. An emergency exists if a condition arises that could reasonably result in damage or harm to persons or property, that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the overtime worked as soon as practical following completion of work.

Sec. 28-162. Disciplinary action.

(a) *Generally.* Department heads and supervisors are responsible for maintaining the proper conduct and discipline of county employees under their supervision. When an employee's performance or conduct is determined by a supervisor or department head to be unacceptable, disciplinary action may be taken in a number of ways, depending on the nature of the offense. All written warnings and formal notice to employees of performance or conduct that is unacceptable must be included in the employee's personnel file as maintained by the personnel department.

(b) *Just cause.* Just cause for disciplinary action shall be in accordance with the following:

(1) Any employee, regardless of occupation, position or profession may be warned, demoted, suspended or dismissed by the appointing authority. Such actions may be taken against employees with permanent status, as defined by section 28-1, only for just cause. The degree and type of action taken shall be based upon the sound and considered judgment of the appointing authority in accordance with this section. When just cause exists, the only disciplinary actions provided for under this section are as follows:

- (a) Written warning;
- (b) Disciplinary suspension without pay;
- (c) Demotion; and
- (d) Dismissal.

(2) There are two bases for the discipline or dismissal of employees under the statutory standard of "just cause" as set out in G.S. 126-35. The two bases are discipline imposed on the basis of unsatisfactory job performance, including grossly inefficient job performance; and discipline imposed on the basis of unacceptable personal conduct.

- (a) Either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct, as defined in subsections (c), (d) and (e) (2) of this section, constitutes just cause for discipline or dismissal. The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of

each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

- (b) The imposition of any disciplinary action shall comply with the procedural requirements contained in subsection (i) of this section.
- (c) Dismissal for unsatisfactory performance of duties. Procedures for dismissal for unsatisfactory performance of duties are as follows:

(1) Unsatisfactory job performance is work-related performance that fails to satisfactorily meet job requirements as specified in the relevant job description, work plan or as directed by the management of the work unit or department.

(2) The intent of subsection (c) is to assist and promote improved employee performance, rather than to punish. This rule covers all types of performance-related inadequacies. Subsection (c) of this section does not require that successive disciplinary actions all concern the same type of unsatisfactory performance. Disciplinary actions related to personal conduct may be included in the successive system for performance-related dismissal, provided that the employee receives at least the minimum number of disciplinary actions, regardless of the basis of the disciplinary actions, required for dismissal on the basis of inadequate performance. Disciplinary actions administered under subsection (c) of this section are intended to bring about a permanent improvement in job performance. Should the required improvement later deteriorate or other inadequacies occur, the supervisor may deal with this new unsatisfactory performance with further disciplinary action.

(3) In order to be dismissed for a current incident of unsatisfactory job performance, an employee must first receive at least two prior disciplinary actions: first, one or more written warning; followed by a warning or other disciplinary action which notifies the employee that failure to make the required performance improvements may result in dismissal.

(4) Prior to the decision to dismiss an employee, the department director must conduct a predissmissal conference with the employee in accordance with the procedural requirements of subsection (i) of this section.

(5) An employee who is dismissed must receive written notice of the specific reasons for the dismissal as well as notice of any applicable appeal rights.

(6) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

(d) *Dismissal for grossly inefficient job performance.* Procedures for dismissal for grossly inefficient job performance are as follows:

(1) Gross inefficiency (grossly inefficient job performance) occurs when the employee fails to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by the management of the work unit or department and that failure results in the following:

- a. The creation of the potential for death or injury or damage to a client, an

employee, members of the public or to a person over whom the employee has responsibility; or

b. The loss of or damage to department property or funds that could result in a serious impact on the department and/or work unit.

- (2) Dismissal on the basis of grossly inefficient job performance is administered in the same manner as for unacceptable personal conduct. Employees may be dismissed on the basis of a current incident of grossly inefficient job performance without any prior disciplinary action.
- (3) Prior to dismissal of an employee with permanent status on the basis of grossly inefficient job performance, there shall be a predissmissal conference between the employee and the department director or designee. This conference shall be held in accordance with the provisions of subsection (I) of this section pertaining to procedural requirements.
- (4) Dismissals for grossly inefficient job performance require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.
- (5) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

(e) *Dismissal for personal conduct.* Procedures for dismissal for personal conduct are as follows:

(1) Employees may be dismissed without prior discipline for a current incident of unacceptable personal conduct.

(2) Unacceptable Personal Conduct includes:

- (a) Conduct for which no reasonable person should expect to receive prior warning;
- (b) Job related conduct which constitutes a violation of state or federal law;
- (c) Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the department or the county;
- (d) The willful violation of known or written work rules;
- (e) Conduct unbecoming an employee that is detrimental to the department's service;
- (f) The abuse of client, patient, student or a person over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the department; or
- (g) falsification of an employment application or other employment documentation;
- (h) Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning; or
- (i) Absence from work after all authorized leave credits and benefits have been exhausted.

(3) Prior to dismissal of an employee with permanent status on the basis of unacceptable

personal conduct, there shall be a pre-dismissal conference between the employee and the department director. This conference shall be held in accordance with subsection (i) of this section.

- (4) Dismissals for unacceptable personal conduct require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.
- (5) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

(f) *Written warning.* Written warnings shall be given in accordance with the following:

(1) The supervisor shall monitor and promote the satisfactory performance of work assignments and acceptable standards of personal conduct. All types of performance-related job inadequacies may constitute unsatisfactory job performance under this section. Unacceptable personal conduct may be work-related or non-work-related conduct and may be intentional or unintentional. When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee receives. The supervisor may elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. The written warning must:

- a. Inform the employee that this is a written warning, and not some other nondisciplinary process such as counseling.
- b. Inform the employee of the specific issues that are the basis for the warning;
- c. Tell the employee what specific improvements, if applicable, must be made to address these specific issues;
- d. Inform the employee the time frame allowed for making the required improvements/corrections. Absent a specified time frame, sixty (60) days is the time frame allowed for correcting unsatisfactory job performance. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct.
- e. Tell the employee the consequences of failing to timely make the required improvements/corrections.

- (2) A written warning must be issued in accordance with the procedural requirements contained in subsection (i) of this Section.

(g) *Disciplinary suspension without pay* An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action or for causes relating to any form of unacceptable personal conduct or grossly inefficient job performance. The length of a disciplinary suspension without pay for an employee must be for at least one (1) full work week, but not more than two (2) full work weeks. Prior to placing any employee on disciplinary suspension without pay the department director or designee shall conduct a presuspension conference with the employee in accordance with the

procedural requirements of this Section contained in subsection (i) of this section. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights.

(h) *Demotion, involuntary.* The department head has the discretion to retain an employee in a lesser capacity when the employee's performance or conduct is sufficient to satisfy grounds for dismissal, but the employee shows promise of acceptable performance or conduct in a lesser position. The department head shall reduce the salary of the employee accordingly.

- (1) Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct as follows:
 - a. *Unsatisfactory job performance.* An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.
 - b. *Grossly inefficient job performance.* An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.
 - c. *Personal Conduct.* An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.
- (2) An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of any applicable appeal rights.
- (3) An employee shall receive a decrease in salary due to a demotion to a lower salary grade as determined by the department head, subject to review and approval by the personnel director and the county manager. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade.

(4) Prior to the decision to demote an employee for disciplinary reasons, the department director or designee must conduct a predemotion conference with the employee in accordance with the procedural requirements contained in subsection (i) of this section.

(i) *Procedural requirements.* Department heads shall consult with the personnel director regarding matters where suspension without pay, demotion or dismissal are considered. The following procedural requirements must be followed when taking disciplinary action under this section:

- (1) *Written warning:* To issue a written warning to an employee, a supervisor must issue the employee a written notice clearly stating it is a written warning detailing the specific issues, the expectation going forward, establishing time frames if applicable, and other matters referenced in subsection (f) of this section including right of appeal and a copy of the grievance procedure.
- (2) *Disciplinary suspension without pay.* To place an employee on disciplinary suspension without pay, the department head must comply with the following procedural requirements:

- a. In matters of unsatisfactory job performance, ensure that the employee has received at least one prior disciplinary action. In matters of grossly inefficient job performance or unacceptable personal conduct, no prior disciplinary actions are required, so an employee may be suspended without pay for a current incident of grossly inefficient job performance or unacceptable personal conduct;
- b. Furnish the employee a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension., as well as the employee's appeal rights and a copy of the grievance procedure;
- c. Advise the employee of any applicable appeal rights in the document affecting the suspension. A department shall furnish to an employee, as an attachment to the written documentation of a grievous disciplinary action, a copy of the county grievance procedure. An employee with permanent status who has been placed on disciplinary suspension shall have seven (7) calendar days from the date of his receipt of written notice of such action to file an appeal with the county grievance procedure contained in section 28-123.

(3) Demotion. To demote an employee the department director must comply with the following procedural requirements:

- a. In matters of unsatisfactory job performance, ensure that the employee has received at least one (1) prior disciplinary action;
- b. In matters of grossly inefficient job performance or unacceptable personal conduct, there is no requirement for previous disciplinary action, so an employee may be demoted for a current incident of grossly inefficient job performance or unacceptable personal conduct without any prior disciplinary action;
- c. Give advance oral or written notice of the appropriate pre-disciplinary conference to the employee of the time, location and the issue for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances.
- d. Give employee written notice of the specific acts or omissions that are the reasons for the demotion;
- e. Advise employee of how and to what extent the demotion will affect the employee's salary or pay grade; and
- f. Advise employee of any applicable appeal rights in the document affecting the demotion. A department shall furnish to an employee, as an attachment to the written documentation of a grievous disciplinary action, a copy of the county grievance procedure. An employee with permanent status who has been demoted shall have seven (7) calendar days from the date of his receipt of written notice of such action to file an appeal with the county grievance procedure contained in section 28-170.

(4) *Dismissal*. Before an employee may be dismissed, a department must comply with the following procedural requirements:

- a. The supervisor recommending dismissal shall discuss the recommendation with the department head or designee who shall conduct a predissmissal conference with the employee. The person conducting the pre-dismissal conference must have the authority to decide what, if any, disciplinary action shall be imposed on the employee.
- b. The supervisor or designated management representative shall schedule a predissmissal conference with the employee.
- c. Advance written notice of the predissmissal conference must be given to the employee of the time, location and the issues for which dismissal has been recommended. The amount of advance notice shall be as much as is practical under the circumstances.
- d. The department director or designee shall conduct the predissmissal conference with the employee, limiting attendance to the employee and the person conducting the conference; a second management representative may be present at management's discretion. A representative from the personnel department shall be present to act as an unbiased consultant. The purpose of the predissmissal conference is to review the recommendation for dismissal with the affected employee and to listen to and consider any information presented by the employee, in order to ensure that a dismissal decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for security exists. No attorneys representing either side may attend the conference.
- e. In the conference, management shall give the employee oral or written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal action and to offer information or arguments in support of the employee's position. Every effort shall be made by management to ensure that the employee has a full opportunity during the conference to set forth any available information in opposition to the recommendation to dismiss prior to the end of the conference. This opportunity does not include the option to present witnesses.
- f. Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should not be communicated to the employee in accordance with this subsection (I)(4)f prior to the beginning of the next business day following the conclusion of

the predissmissal conference or after the end of the second business day following the completion of the predissmissal conference.

- g. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. A department shall furnish to an employee, as an attachment to the written documentation, a copy of the county grievance procedure. An employee with permanent status who has been dismissed shall have seven (7) calendar days from the date of his receipt of written notice of such action to file an appeal with the county grievance procedure contained in section 28-170.
- h. The effective date of a dismissal for unsatisfactory job performance shall be determined by management. The effective date of the dismissal shall not be earlier than the letter of dismissal nor more than fourteen (14) calendar days after the notice of dismissal.

(j) *Time limits for active warnings/disciplinary actions for progressive discipline.* Any disciplinary action is deemed inactive for the purpose of this section if:

- (1) The manager or supervisor notes in the employee's personnel file that the reason for the disciplinary action has been resolved or corrected; or
- (2) Eighteen months have passed since the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last 18 months and the department has not, prior to the expiration of the 18-month period, issued to the employee written notice, including reasons, of the extension of the period.

(k) *Placement on investigation for employees subject to state personnel act.*

Investigation status is used to temporarily remove an employee from work status. Placement on investigation with pay does not constitute a disciplinary action as defined in this section and is not appealable. Management must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled work day after the beginning of the placement. An investigatory placement with pay may last no longer than thirty (30) calendar days. If no action has been taken by a department by the end of the 30-day period and no further extension has been imposed, the department must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee. It is permissible to place an employee in investigation status with pay only to:

- (1) Investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;

- (2) Provide time within which to schedule and conduct a pre-disciplinary conference;
or
- (3) Avoid disruption of the work place or to protect the safety of persons or property.

(l) *Investigative suspension for employees not subject to state personnel act.* Investigation status is used to temporarily remove an employee from active work status. Suspension may be necessary in either causes relating to performance of duties or personal conduct.

Placement on investigation with pay does not constitute a disciplinary action as defined in this section and is not appealable. Suspension is intended for use in providing time to investigate, establish facts and to reach a decision concerning an employee's actions in those cases where it is determined the employee should not continue work pending a decision.

During the investigation, hearing or trial of an employee on any criminal charge, or during the course of certain civil actions or other situations involving an employee or when suspension would be in the best interest of the employee or the county, the department head may, with the county manager's approval, suspend the employee with pay for an indefinite period.

- (1) *With pay.* The department head must notify an employee in writing of the reasons for investigative suspension not later than the second scheduled workday after the beginning of the suspension. An investigatory placement with pay may last no longer than 30 calendar days without written notice of extension by the department director. When an extension beyond the thirty-day period is required, the department director must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension. If no action has been taken by a department by the end of the 30 day period and no further extension has been imposed, the department must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision. It is permissible to place an employee in investigation status with pay only to:

- a. Investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
- b. Provide time within which to schedule and conduct a pre-disciplinary conference; or
- c. Avoid disruption of the workplace or to protect the safety of persons or property.

Failure of the employee to report back to work when requested or at the expiration date of the suspension will result in termination of employment effective the date the employee fails to return.

- (2) *Without pay.* When facts are known to the department head which, in his judgment, would seriously impact the department's ability to maintain the integrity of such department or maintain the level or quality of such services provided by such department and only in those events, the department head, with the approval of the

manager, may suspend an employee without pay for a minimum of one full workweek. If, in the judgment of the department head and county manager, the employee was not at fault and the suspension is terminated by full reinstatement, the employee may be granted full recovery of pay and benefits for the period of the suspension. Failure of the employee to report back to work when requested or at the expiration date will be considered to have terminated his employment effective on the date of suspension without reinstatement of pay and benefits, and any subsequent reinstatement or reemployment shall be on the basis of new employment.

(m) *Credentials*. By statute and rule, some duties assigned to positions may be performed only by persons who are duly licensed, registered or certified as required by relevant authority. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the County Personnel department or in the position description for the position.

- (1) Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law or applicable rule. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct. And employee is dismissed for failure to obtain or maintain credentials shall be dismissed under the procedural requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance.
- (2) Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment, disciplinary action shall be administered as follows:
 - a. If an employee was determined to be qualified and was selected for a position based upon falsified work experience, education, registration, licensure, or certification information that was a requirement for the position, the employee must be dismissed in accordance with subsection (i) of this section.
 - b. In all other cases of post-hiring discovery of false or misleading information, disciplinary action shall be taken, but the severity of the disciplinary action shall be at the discretion of the department head.
 - c. When credential or work history falsification is discovered before employment with a department, the applicant shall be disqualified from consideration for the position in question.

Sec. 28-163. Performance evaluation.

The supervisor to whom the employee reports for work assignments, schedule or other matters shall annually review the performance of each county employee. This annual review should be conducted during the anniversary month of employment. The written evaluation of the employee must be received in the Personnel department prior to the payroll deadline date of the pay period in which an annual increment would be due. Said evaluation shall be placed in the employee's

official personnel file in the Personnel department. Any salary adjustment based on the performance evaluation (also known as annual increment), will be effective on the first day of the month following the anniversary month. Performance shall also be evaluated at the time of a transfer or promotion so that the entire year's work history is reflected. If the position has had job description changes which change duties but not classification, the supervisor shall direct the employee to update

The requirement of annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation. Department heads are required to approve any such waiver and provide written verification to the personnel department.

Sec. 28-164. Delay of performance evaluation, including probation. Any employee's absence from work due to approved sick leave, leave without pay, workers' compensation, or any other authorized leave will result in an extension of the employee's annual performance evaluation review, so as to allow adequate time for evaluation of performance.

Sec. 28-165. Probationary period.

(a) New hires with the county: A probationary period of nine months from the date of hire shall be served by all employees in permanent positions in the service of the county except for employees hired as trainees or employees of the sheriff and register of deeds. If a new hire is not meeting expectations, the supervisor is required to hold a performance conference to inform the employee of any unsatisfactory performance. The supervisor shall be responsible for evaluating the performance of the employee during the probationary period and shall complete a performance evaluation prior to the expiration date of the probationary period which either recommends the employee for permanent status or recommends termination of employment. The probationary period shall be extended for the amount of time the employee is on approved leave without pay. The requirement of annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation.

(b) Transfers: When an employee transfers from one department of the County to another a new, probationary period of up to six (6) months may be imposed. If so, this must be communicated in the hire letter.

(c) Trainees are considered to be on probation until they satisfy the requirements established in their appointment letter.

Sec. 28-166. Permanent status.

Permanent status shall be granted to all fully qualified and work against employees in officially budgeted permanent positions after satisfactory completion of the nine month probationary period, except if a permanent employee is transferred to another position as a part of a reduction in force, a new nine-month probationary period shall be established as a condition of transfer; and except for employees of the sheriff and register of deeds who serve at the pleasure of the respective department head. Trainee employees shall be granted permanent status at the end of nine months probation or the trainee period whichever is longer. Should an employee with permanent status be promoted, laterally transferred or demoted to a position for which he would be a trainee, permanent status is waived until such time as the employee meets the required minimum education and skills required for the new position satisfying the trainee requirement.

Sec. 28-167. Reduction in force.

(a) If a reduction in force becomes necessary for the county, either for lack of funds, revenues or lack of available work, the following procedures shall be followed:

- (1) Consideration of organizational needs of the county and the affected department
- (2) A determination shall be made about which position or portion of a position the department can best do without.
- (3) If there is more than one position in a department that could be abolished, the value of an individual's performance to the department shall be considered.
- (4) All other considerations set forth herein being equal, length of service shall be considered, but shall not be the controlling consideration.
- (5) No permanent employee shall be separated while there are part-time, temporary or probationary employees serving in the same class within the same department, unless the permanent employee is not willing to transfer or reassign, or unless the permanent employee does not have the knowledge or skills required to perform the work of the alternate position within the same class within a reasonable period of orientation or training such that would be given to a new employee.
- (6) Employees shall be given at least three weeks' written notice of a reduction in force.
- (7) A permanent employee who is separated due to a reduction in force shall have the right to appeal in accordance with the grievance procedure, to ensure that reduction in force procedures were followed. Permanent employees under the department of human resources shall have a further right to appeal to the office of administrative hearings.

Reduction in force criteria must be approved by the county manager before implementing the reduction in force.

Sec. 28-168. Demotion.

The County recognizes two types of demotion –voluntary and involuntary.

A demotion is a change in job responsibility to a position in a lower salary grade. A department head may demote an employee under the following conditions:

(A) *Voluntary*. When the employee and the employer agree that the employee is unable to perform in the current position, but shows promise of becoming a satisfactory employee in a lesser position, an assignment to a lesser position may be made without an application process; and

(B) *Involuntary*. When an employee's performance or conduct is sufficient to satisfy grounds for dismissal, a department head may consider demotion in lieu of dismissal.

Sec. 28-169. Secondary or outside employment.

Full time employment with the county takes priority over other employment interests of employees. All outside employment for salaries, wages or commissions, and all self-employment, must be reported to and approved by the employee's department head before such work is to begin. The department head will determine whether the outside work would create a conflict of interest or otherwise be incompatible with county service. The assumption of outside employment without prior approval by the county, will be deemed improper conduct and subject the employee to disciplinary action.

Sec. 28-170. Grievance procedure.

The grievance procedure exists to provide prompt and orderly resolution of problems arising between the employer and employee, when policies or working conditions exist which may be creating, or perceived to be creating problems in the workplace.

The procedure exists to insure employees the opportunity to be heard without fear of reprisal or retaliation, and to be heard fairly and promptly. Grievances which are not received within the time allowed as prescribed in this section or which are not filed with the personnel director as prescribed in this Section shall be dismissed.

(a) This grievance procedure applies to all departments and employees of the County, except in those instances when North Carolina statutes apply to certain activities of the sheriff or register of deeds. Employees in Social Services, Public Health and Mental Health have additional rights under the State Personnel Act.

(a) All permanent employees shall have the right to grieve the following:

(1) Disciplinary actions; dismissal, involuntary demotions, and suspension without pay.

(2) Failure to be promoted and salary adjustments.

(3) Allegations of illegal acts of the employer.

(4) Written warning and performance evaluations are appealable, and the decision of the department head is final, except when the department head is the supervisor, and only then to the county manager.

(5) Allegations of workplace harassment should be made to the personnel director. If the allegation is against the personnel director, the report shall be made to the county manager.

Procedure.

Except in those instances described in this section, there is only a one (1) step grievance procedure, in all other cases it is a two (2) step process, with the department head and then the county manager being the ultimate decision makers.

(a) An employee must file a grievance, in writing, with the personnel director and the immediate supervisor within seven (7) calendar days of the date of the action being grieved. The written notice of filing shall include the date of the allegedly offensive action, and the reasons for the appeal. A hearing will be scheduled to consider the employee's grievance. The department head who will conduct the hearing shall, within seven (7) calendar days of receipt of the grievance notice, advise the employee of the date, place and time for the hearing.

(b) Employees shall be allowed one hour from regular duties for preparing a grievance.

(c) An employee shall have the right to legal counsel, and the expense of legal counsel shall be borne by the employee.

(d) Advisory services pertaining to procedures and regulations are available from the county personnel director or the staff attorney and may be used by the employee, supervisor or department head to settle grievances or complaints at any level.

(e) Every attempt will be made to resolve the grievance informally. The department head shall issue a written decision on the grievance not later than seven (7) calendar days after the hearing. The decision shall include notice of further appeal rights.

Step Two. If the employee is dissatisfied with the response at Step One, and the issue falls into one of the categories where further appeals are allowed, the employee may file a grievance in writing to the County manager within seven (7) calendar days of receipt of the written decision. The grievance shall state concisely the basis for the complaint.

(f) In order that all employees may be able to obtain further consideration of their problems, it is essential that two-way communication occur, and the supervisor shall make every effort to resolve the problem or correct the misunderstanding prior to the grievance procedure.

(F) Hearings. The county grievance procedure provides at most two levels of hearings; department head and County manager. The number of hearings is dependent upon the level in the organization that the action under appeal was taken and the type of action.

(1) The time allowed for appeal is as follows:

(a) *Dismissal, suspension without pay and demotion.* An employee shall file a written appeal promptly, within seven (7) calendar days after an appealable action along with appeal rights is received. The employee shall attach all additional information and supporting documents to the appeal. The notice of appeal shall be received by the personnel director by 5:00 on the seventh day.

(b) Other appeals. An employee shall file a written appeal promptly within seven calendar days after an appealable action along with appeal rights is received. The employee shall attach all additional information and supporting documents to the appeal. The notice of appeal shall be received by the personnel director by 5:00 on the seventh day.

(2) The county official who will conduct the hearing shall within seven calendar days contact the employee to set the date, place and time for oral presentation of the grievance.

(3) The county official shall make every possible effort to achieve an equitable solution to the problem at this meeting but may take the necessary time to investigate the problem.

(4) In no event shall the county official delay, more than seven (7) calendar days from the grievance conference without the consent of the employee, rendering a decision.

(5) The county official shall render a decision in writing. Such writing shall contain the employee's and the county official's statements and the county official's conclusions. The written decision shall also contain notice of further appeal rights and shall designate the county official who should hear a continuation of the grievance if applicable.

(6). If the conclusions are satisfactory, the procedure is ended and the documents are filed in the personnel department. If the conclusions are unsatisfactory, the employee may proceed up the chain of command, dependent upon where the grievance began. The employee shall have seven calendar days from the receipt of the decision to file a written request with the Personnel director for continuation of the appeal. The employee shall attach all additional information and supporting documents to the notice of continuation of the appeal. The notice of continuation of the grievance shall be received by the personnel director by 5:00 of the seventh day.

(7) The decision of the County manager is administratively final, except that permanent employees of the departments of social services, public health and mental health who are subject to the state personnel act will have 30 days to appeal an appealable decision of the county manager to the state personnel commission. Appeals to the state personnel commission must be filed in writing with a copy furnished to the personnel director. Employees should consult with the state personnel commission regarding the state appeals procedures.

(h) Exceptions. An initial probationary employee as set forth in section 28-165 may be released at any time during the probationary period for causes relating to the performance of duty or personal conduct without right of appeal or hearing.

Secs. 28-171 –28-195. Reserved.

ARTICLE VI. EMPLOYEE BENEFITS AND SERVICES

Sec. 28-196. Eligibility.

The benefits provided by this article shall be applicable to those county employees who are employed in full-time, four-fifths, half-time, or other permanent, probationary and trainee officially budgeted positions. Excluded from this article are part-time and temporary positions.

Sec. 28-197. Annual leave.

Annual leave is a benefit. Department heads have the right to deny time off when the needs of the county so require.

(a) *Leave year.* For the purpose of earning and accruing annual leave, the 12-calendar month period between January 1 and December 31 is established as the leave year for the county.

(b) *Annual leave earned.* Each full-time permanent, probationary, or trainee employee occupying an officially budgeted position shall earn annual leave on a monthly basis in accordance with the following schedule of total service:

Years	Hours	
	Month	Annual
Less than 2 years	6.666	80
2 but less than 5	8	96
5 but less than 10	10	120
10 but less than 15	12	144
15 or more	14	168

(a) *Procedures.* Annual leave procedures are as follows:

(1) Annual leave earned by an employee shall be taken only upon prior approval of the employee's supervisor. However, an annual leave request of an emergency nature must be made by the employee and approved by the supervisor within 30 minutes of the beginning of the workday or shift.

(2) Annual leave may be taken in units of quarter hours.

(3) Holidays or regularly scheduled days off which occur during a period of annual leave are not charged as annual leave when they occur during a period when an employee is taking annual leave.

(4) Annual leave shall be transferred to sick leave with notice to the department head, when sick leave has been exhausted.

(5) Annual leave accruals in excess of 240 hours for all employees shall transfer automatically to sick leave on December 31 of each year.

(6) When annual leave had been exhausted, the granting of leave without pay is at the

discretion of the department head. Leave without pay shall be deducted from the employee's pay on a two-week-pay-period basis. See section 28-116 pertaining to leave without pay.

(7) Annual leave shall not be advanced to any employee.

(8) If an employee separates from employment when leave without pay had been approved, the employee's final pay check shall be reduced proportionately.

(9) A maximum of 240 hours accrued annual leave for all employees will be paid upon separation from county service when the employee gives notice of separation as specified in Sec. 28-155. Leave will be compensated by separate payment in the pay period following the employee's final regular pay period.

(10) An employee who is involuntarily separated without fault shall be paid for all accrued annual leave not to exceed a maximum of 240 hours.

(11) An employee who is terminated for cause or who does not submit the required three week notice of separation shall not be compensated for accrued annual leave.

(12) An employee who must retire due to a disability may transfer annual leave to sick leave and exhaust all leave prior to the effective date of separation.

(13) An employee may take annual leave with approval of the supervisor up to and including the date of separation.

(14) An employee retains active employment status during a period of annual leave up to and including the date of separation.

(15) Upon the death of a permanent employee, compensation for accumulated leave shall be paid to the employee's estate or designated beneficiary.

(16) Holidays or regularly scheduled days off which occur during a period of annual leave shall not be charged as annual leave.

(17) It shall be the responsibility of the personnel director to maintain a record of annual leave on each employee, which shall be responsibility of each supervisor to provide in a timely fashion.

(18) An employee who has resigned or been subject to a Reduction in Force may request the time be transferred to a new employer, if that employer allows the transfer of accrued vacation. This request shall be made in writing prior to the last date of employment with the county.

Editor's note: Employees earning annual leave at a rate of 16 hours per month as of July 1, 1989, were given the option to make a one-time-only election to reduce annual leave accrual to 14 hours per month and to increase their sick leave accrual to ten hours per month. A salaried employee working less than 40 hours per week (four-fifths, one-half, or other) and occupying an officially budgeted position with benefits shall earn annual leave on a pro rata basis based upon the category of the employee (four-fifths, one-half, or other). Example: A half-time employee with two years of service would earn 5 percent of the leave which would be earned by a full-time employee with two years of service.

Sec. 28-198. Purchase of annual leave.

A salaried employee hired into an officially budgeted position with benefits may be allowed to purchase annual leave which was accrued, not taken, and paid by the immediately previous employer. The employee must request to purchase the leave within 30 days of commencing employment with the county. The amount to be purchased may not exceed 80 hours, and it must be purchased at the employee's rate of pay with the county.

Sec. 28-199. Sick leave.

(A) Sick leave for county employees is a benefit provided by the county. Abuse of sick leave policies and practices will be considered a disciplinary offense. Sick leave earned by an employee shall be taken only upon prior approval of the employee's supervisor. However, that sick leave of an emergency nature must be requested by the employee and approved within thirty (30) minutes of the beginning of the workday or shift. The county provides eight (8) hour's sick leave each month to each full-time permanent, probationary, or trainee employee occupying an officially budgeted position. Sick leave is provided on a pro rata basis based upon the category of the employee when the work week is less than 40 hours (four-fifths, half-time or other).

Editor's note-Employees earning annual leave at a rate of sixteen (16) hours per month as of July 1, 1989 were given the option to make a one time only election to reduce annual leave accrual to fourteen (14) hours per month and to increase their sick leave accrual to ten (10) hours per month.

(b) As used in this subsection, immediate family, for all purposes, shall be wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepbrother, stepsister, or as otherwise approved by the department head. Department head's may also approve leave for persons with whom the employee is living in a close, personal relationship. An employee may be granted sick leave if the absence is due to:

- (1) Sickness or injury which prevents the performance of usual duties.
- (2) Disability as defined by the county short term disability plan.
- (3) Paternity to coincide with wife's period of disability when a physician certifies the employee is needed to care for his wife, otherwise vacation or other paid leave may be used for the birth of a child, adoption or foster placement.
- (4) Exposure to a contagious disease when continuing work, in the judgment of a physician, might jeopardize the health of others.
- (5) Medical and dental appointments of employee or immediate family.
- (6) Quarantine due to a contagious disease in the employee's immediate family.
- (7) Illness in the employee's immediate family which requires the care from the employee;

(8) Death of a member of the employee's immediate family. An absence in excess of three days must be approved by the department head.

(9) A supervisor may require a physician's statement when an employee requires sick leave in excess of three (3) consecutive days, when the reason for sick leave is unclear or when sick leave patterns are suspect. The employee shall have 15 days to provide a medical certification and if the employee fails to provide the medical certification within the allowable time, the absence will be considered unexcused and subject to disciplinary action. The director of personnel may require a second opinion in certain circumstances. No sick leave will be charged for a mandatory examination.

(10) The cost of second opinion examinations and other examinations where the appropriate use of sick leave is in question, shall be borne by the County.

(c) Sick leave procedures are as follows:

(1) Sick leave is cumulative indefinitely.

(2) Sick leave may be taken in units of quarter-hours.

(3) On December 31 of each year, sick leave balances are increased by automatic transfers of all annual leave hours in excess of 240 hours for all employees.

(4) All unused floating holiday hours shall automatically transfer to sick leave at the end of the fiscal year.

(5) When sick leave has been exhausted, annual leave shall be transferred to sick. When all paid leave had been exhausted, the granting of leave without pay is at the discretion of the department head. Any reimbursements due the county because of leave without pay shall be deducted from the employee's pay on a two-week-pay-period basis. See section 28-116 pertaining to leave without pay.

(6) Sick leave shall not be advanced to any employee.

(7) All benefits to which an employee is entitled continue to accrue while an employee is out of work on sick leave or when sick leave is used to supplement short-term disability or workers' compensation benefits.

(8) An employee may use sick leave to supplement workers' compensation benefits up to 100% of gross salary.

(9) All unused sick leave is lost upon separation of employment, except when separation is due to retirement.

(10) Holidays or regularly scheduled days off which occur during a period of sick leave shall not be charged as sick leave.

(11) It shall be the responsibility of the personnel director to maintain a record of sick leave on each employee, which shall be the responsibility of each supervisor to provide in a timely fashion.

(C) *Sick leave use.* Supervisors may require an employee to use compensatory time in lieu of sick leave.

Sec. 28-200. Reinstatement and transfer of sick leave.

(a) Former employees reemployed by the county: Employees who return to employment with the County will be allowed to transfer the balance of sick leave from the former employer under the following conditions:

- (1) The former employer was a member of one of the divisions of the State Retirement System
- (2) The employee does not have more than a fifteen (15) day period of unemployment between the former employer and Catawba County
- (3) The employee did not retire from any unit under the State Retirement System, including Catawba County.

(b) Former Employees Who Retire:

Any former employee who retired from Catawba County or any unit of the State Retirement System, and reported sick leave to the Retirement System, will not be allowed to transfer that sick leave to the County.

(c) Employees at the Time This Code is Adopted

Any current employees at the time this Code is adopted, who have not been allowed to transfer all their sick leave from previous County employment, or eligible employment as allowed under this Code, will be allowed to do so. Appropriate documentation must be submitted and approved by the Personnel director.

(d) Any former employee of an agency which is a member of the state local governmental employee's retirement system or the state employees' retirement system or other systems under the department of state treasurer, who is hired by the county within 12 months of the termination with the former agency, shall be eligible to transfer the balance of sick leave available to the employee at the time of termination with the past employer. A written request for transfer of sick leave must be made to the personnel director within 90 days of employment by Catawba County. Proper documentation, as determined by the personnel director verifying accumulated sick leave hours must be received with the request. Sick leave transferred to the county in this manner is subject to all of the provisions of section 200.

Sec. 28-201. Family and Medical Leave Act.

(a) *Purpose.* The Family and Medical Leave Act (FMLA) of 1993 was passed by Congress to:

- (1) Balance the demands of the workplace with the needs of families, promote the stability and economic security of families, and promote national interests in preserving family integrity;
- (2) Minimize the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons, including

maternity-related disability, and for compelling family reasons; and

(3) Promote the goal of equal employment opportunity for women and men.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Adoption means placement of a child for purposes of legal adoption following the filing of an adoption petition.

Child means a son or daughter under 18 years of age, or one 18 or over, incapable of self-care because of a mental or physical disability, who is:

- (1) A biological child.
- (2) An adopted child.
- (3) A foster child.
- (4) A stepchild.
- (5) A legal ward.
- (6) A child of the employee standing in loco parentis.

Foster care means placement of a child as a result of state action, rather than an informal arrangement to take care of another person's child.

Health care provider means:

- (1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the state; or
- (2) Any other person determined by statute, credential, or licensure to be capable of providing care services.

Intermittent work schedule means a work schedule in which an employee works on an irregular basis and is taking leave in separate blocks of time, rather than for one continuous period of time, usually to accommodate some form of regularly scheduled medical treatment.

Light duty means when a treating physician certifies an employee may return to work, but is unable to perform one or more of the essential functions of the employee's position although the employee may perform other of the employee's less demanding tasks.

Loco parentis means persons who have the responsibility for the day-to-day care and financial support of a child. A biological or legal relationship is not necessary.

Parent means a biological or adoptive parent, or one who stood in loco parentis to the employee when the employee was a child. This term does not include parent-in-law.

Reduced work schedule means a work schedule involving less hours than an employee is regularly scheduled to work.

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

- (1) Any period of incapacity or treatment connected with inpatient care, such as an

overnight stay, in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care.

- (2) Continuing treatment by a health care provider which includes any period of incapacity, such as inability to work, attend school, or perform other regular daily activities, due to one or more of the following: a health condition, including treatment therefore or recovery therefrom, lasting more than three consecutive days and any subsequent treatment or period of incapacity relating to the same condition that includes:
 - a. Treatment two or more times by or under the supervision of a health care provider; or
 - b. Treatment by a health care provider one time with a continuing regimen of treatment;.
- (3) Pregnancy or prenatal care;.
- (4) Any period of incapacity or treatment due to a chronic serious health condition, even when the employee or family member does not receive treatment from a health care provider during the absence and even if the absence does not last more than three days, which is defined as one:
 - a. Requiring periodic visits or treatment by a health care provider or by a nurse or physician's assistant under the direct supervision of a health care provider;
 - b. Continuing over an extended period of time, including recurring episodes of a single underlying condition; and
 - c. Which may cause episodic rather than continuing periods of incapacity (for example, asthma, diabetes, epilepsy, and the like).
- (5) A permanent or longterm condition from which treatment may not be effective (for example, Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment and even if the absence does not last more than three days.
- (6) Multiple treatments from restorative surgery or incapacity for serious conditions that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment (chemotherapy, radiation, dialysis, and the like).

Note: Treatment includes but is not limited to examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Ordinarily, unless complications arise, the following are examples of conditions that do not meet the definition: common cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, cosmetic treatments, and the like. The following may meet the definition if all of the other conditions of this section are met: restorative dental or plastic surgery after an injury or removal of cancerous growths, mental illness, resulting from stress or allergies, treatment for substance abuse.

Spouse means a husband or wife as recognized by state law.

Twelve-month period means a "rolling" 12-month period measured backward for the date the employee uses any FMLA leave. Each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12-workweek entitlement which has not been used during the preceding 12 months.

Workweek means the number of hours an employee is regularly scheduled to work each week.

(c) *Eligibility.* Eligibility for family and medical leave is determined in accordance with the following:

- (1) *Determining eligibility.* An employee's eligibility for family/medical leave shall be based on the employee's months of service and hours of work as of the date the leave is to commence.
- (2) *Eligibility criteria.* Any employee, permanent, probationary, or trainee, who has worked for the county government for at least 12 months and has worked at least 1,250 hours (Vacation, sick, workers' compensation, disability, and other forms of leaves are not considered hours worked) over the previous 12 months is entitled to a total of 12 workweeks of leave, paid or unpaid, during a 12-month period for one or more of the following reasons:
 - a. For a birth of a child and to care for the newborn child after birth, provided leave is taken within a 12-month period following birth (An expectant mother shall also take FMLA leave pursuant to subsection (c)(2)d of this section before the birth of the child for prenatal care or if her condition makes her unable to work);
 - b. For the placement with the employee of a son or daughter for adoption or foster care, provided the leave is taken within a 12-month period following adoption (FMLA must also be granted before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed);
 - c. For the employee to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or
 - d. Because the employee has a serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position.

Note: Husbands and wives employed by the county are only entitled to 12 aggregate number of workweek's leave during a 12-month period where such leave is taken pursuant to subsection (c)(2)a or (c)(2)b of this section and pursuant to subsection (c)(2)c of this section if the leave requested is to care for either of the employee's parents who has a serious health condition.

(d) *Leave charges.* Leave shall be charged as follows:

- (1) Periods of paid leave, periods of leave without pay, including leave without pay while drawing shortterm disability, and absences due to workers' compensation count toward the 12 workweeks to which the employee is entitled.

- (2) When an employee returns to work on light duty, the time spent working in light duty is counted toward 12 workweeks to which the employee is entitled.
- (3) Employees who have FLSA overtime may not be required to use this time for family medical leave; however, FLSA straight time and compensatory time if available must be exhausted before a period of leave without pay may begin.
- (4) Employee options are as follows:
 - a. *Birth.* For the birth of a child, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay, except that sick leave shall be used only during periods of disability.
 - b. *Adoption.* For the adoption or foster care of a child, the parents shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay.
 - c. *Illness of child, spouse, parent.* For the illness of an employee's child, spouse, or parent, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay.
 - d. *Employee's illness.* For the employee's illness, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay. If the illness extends beyond the 28-day waiting period required for shortterm disability, the employee begins receiving shortterm disability benefits and may elect to use the balance of paid leave to supplement shortterm disability up to 100 percent of the employee's gross salary. When an employee is absent under workers' compensation, the employee may elect to use the balance of sick leave to supplement the workers' compensation benefits up to 100 percent of the gross salary.
- (e) *Intermittent leave or reduced work schedule.* Intermittent leave or a reduced work schedule may be granted as follows:
 - (1) Pursuant to this policy, the employee may not take leave intermittently or on a reduced work schedule for childbirth and birth-related child care or for adoption unless the employee and the department agree otherwise; however, when medically necessary, the employee may take leave intermittently or on a reduced schedule to care for the employee's child, spouse, or parent who has a serious health condition or because the employee has a serious health condition. If such leave is foreseeable, based on the planned medical treatment, the department may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave.
 - (2) Only the time actually taken as leave shall be counted toward the 12 weeks of leave to which the employee is entitled when leave is taken intermittently or on a reduced leave schedule.
 - (3) If an employee works a reduced or intermittent work schedule and does not have leave available to make up the difference between the normal work schedule and the new temporary schedule to bring the number of hours worked up to the

regular schedule, the employee's pay status will be changed to reflect the reduction in hours scheduled resulting in a reduction in leave accrual and other benefits not subject to the Family and Medical Leave Act.

(f) *Light duty.* Light duty may be authorized as follows:

(1) *Workers' compensation.*

- a. If the treating physician for workers' compensation certifies the employee is able to return to a light-duty job, the employee may choose to remain out of work on FMLA leave for the remaining portion of the employee's FMLA leave period.
- b. As a result of declining a light-duty position, the employee may lose workers' compensation benefits under applicable state law, but is entitled to remain on FMLA leave and is required to exhaust available paid leave before a period of leave without pay may commence. At the end of the 12-week period, if the employee is unable to perform the essential functions of the original position with reasonable accommodation, the employee loses the right to be restored to that original position.
- c. If the employee voluntarily accepts light duty, the time the employee is on light duty is considered FMLA leave until the end of the 12-week period.

(2) *Shortterm disability.* If the treating physician certifies the employee is able to return to a light-duty job, the employee will be subject to the terms of the shortterm disability plan governing return to work. If an employee returns to work in a light-duty job, the time the employee is on light duty is considered FMLA leave until the end of the 12-week period. The shortterm disability plan may offer additional protection to the employee beyond the 12-week period under FMLA.

(g) *Department responsibility.* The director shall ensure that notice provided by the personnel department is kept conspicuously posted where it can be seen by employees and job applicants. The director shall also ensure that written guidance is provided to all employees and supervisors.

(h) *Supervisor's responsibility.* Responsibilities of supervisors are as follows:

- (1) *Leave request.* The supervisor shall determine from each employee requesting leave the reason leave is requested. If the employee fails to explain the reason that leave is required, the supervisor may deny leave. It is the responsibility of the supervisor to ensure qualifying leave is designated as family medical leave even when an employee would rather not use any of his FMLA leave entitlement. If the supervisor believes the reason for the leave may be a qualifying reason under FMLA, the supervisor shall then consult with the personnel department in determining if the employee is eligible for family medical leave on the date the leave will commence and, if eligible, in determining that the leave requested is for an FMLA qualifying reason.
- (2) *Notice of eligibility.* The employee will receive notice from the personnel department regarding eligibility.
- (3) *Designation of leave as FMLA leave.* Leave is designated as FMLA leave in

accordance with the following:

- a. If information is not sufficient to make a determination, the department shall require the employee to provide information.
 - b. Once a department has knowledge that the reason leave is being taken is for an FMLA-required reason, the supervisor must, within two business days absent extenuating circumstances, ensure the employee is notified that the leave is designated and will be counted as FMLA leave. The notice may be oral or in writing, but must be confirmed in writing no later than the following payday.
 - c. If an absence which begins as other FMLA leave later develops into an FMLA-qualifying absence, the entire leave period that qualifies under FMLA may be counted as FMLA leave. The notification requirements of subsection (g)(3)b of this section apply.
- (4) *Designation of FMLA leave after return to work.* Procedures for designation of FMLA leave after a return to work are as follows:
- a. The supervisor may not designate leave that has already been taken as FMLA leave after the employee returns to work, with two exceptions:
 - 1. If an employee is out for a reason that qualifies for FMLA leave and the supervisor does not learn of the reason for the leave until the employee returns to work, the supervisor shall designate the leave as FMLA leave within two business days of the employee's return; or
 - 2. If the supervisor has provisionally designated the leave under FMLA leave and is waiting receipt from the employee of required certifications.
 - b. Similarly, the employee is not entitled to protection of the FMLA if the employee gives notice of the reason for the leave later than two business days after returning to work.
- (i) *Employee responsibility.* The employee shall give notice of the need for leave under this policy and pursuant to the sections of this chapter that address the use of paid leave. The employee must explain the reasons for the needed leave to allow the department to determine that the leave qualifies under the act.
- (1) *Birth, adoption, or foster care.* An employee must give 30 days' written advance notice to the supervisor of the need to take family medical leave when it is foreseeable for the birth or placement of a child for adoption or foster care or for planned medical treatment. If the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice no more than two business days after learning of the need for leave, except where extraordinary circumstances exist.
 - (2) *Planned medical treatment.* When medical treatment is of the type which may be planned for the employee's child, spouse, or parent or when the employee has a serious health condition, the employee must give 30 days' notice, if practicable, of

the intention to take leave. For planned medical treatment, employee consultation with the supervisor prior to the approval of leave is mandatory. The county reserves the right to deny leave until 30 days after appropriate notice is provided.

- (3) *Medical emergency.* If a medical emergency occurs requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, such notice must be given as soon as practicable, ordinarily within one or two business days, or when the employee learns of the need for leave. In a medical emergency notice should be given either in person or by phone to the supervisor and may be given by the employee's spouse or other family member if the employee is unable to do so due to a serious health condition.
 - (4) *Extension of leave.* The employee must notify the supervisor immediately of the need to request the extension of family medical leave. Failure to return to work at the expiration of the approved leave period will be deemed a resignation.
 - (5) *Certification.* The employee shall provide certification in accordance with subsection (j) of this section. If the employee does not provide medical certification, the absence will be considered unexcused and subject to disciplinary action.
- (j) *Employee medical certification.* Employee medical certification may be required in accordance with the following:
- (1) *Adoption.* The supervisor may require a claim for leave because of adoption be supported by reasonable proof of adoption.
 - (2) *Medical certification.* The supervisor may require that a claim for leave because of a serious illness of the employee or of the employee's child, spouse, or parent be supported by a certification from the health care provider. Certification may be required as follows:
 - a. When leave is foreseeable and at least 30 days' notice has been provided, the employee must provide certification prior to leave commencing.
 - b. When it is not possible to provide the medical certification before the leave begins, the employee must provide the requested certification to the supervisor within 15 days following the request. If the employee does not provide medical certification within the allowable time, the absence will be considered unexcused and subject to disciplinary action.
 - c. At the time certification is requested, the employee must be advised of the anticipated consequences of an employee's failure to provide adequate certification. The employee shall be given a reasonable opportunity to correct any incomplete information.
 - (3) *Medical certification form.* The personnel department shall be responsible for developing internal procedures and forms to be used for medical certification which comply with the requirements of the FMLA.
 - (4) *Validity of certification.* A determination of the validity of the certification may be made as follows:

- a. The health care provider may be contacted for clarification or authenticity of the medical certification by the personnel director.
 - b. If the personnel director has reason to doubt the validity of the medical certification, the employee may be required to get a second opinion, at the county's expense. Pending the receipt of the second or third opinions, the employee is entitled provisionally to FMLA leave. If the opinions do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave. If the opinions of the employee's and the county's health care providers differ, a third opinion may be required again at the county's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the county and the employee.
- (5) *Recertification of medical conditions.* Medical conditions may require recertification as follows:
 - a. Subsequent recertification to support continuing family medical leave may be required, not more often than 30 days, unless:
 - 1. The employee requests an extension of leave;
 - 2. There are changed circumstances regarding the illness or injury; or
 - 3. Information is received which casts doubt upon the continuing validity of the employee's stated reason for the absence.

If the minimum duration specified on a certification is more than 30 days, the county may not request recertification until that minimum duration has passed unless less one of the reasons stated in this subsection (j)(5)a exists.
 - b. The requested recertification must be provided by the employee within 15 days of the request unless it is not practicable under the particular circumstances.
 - c. The requested recertification shall be at the employee's expense. No second or third opinion on recertification shall be required.
- (6) *Fitness for duty certification.* A fitness for duty certification indicating when and if the employee is able to return to work shall be submitted to the personnel department prior to the employee's return to work.
- (k) *Employment and benefits protection.* Protection of employment and benefits is in accordance with the following:
 - (1) *Reinstatement.* The employee shall be reinstated to the same position held when the leave began or one of like pay grade, pay, benefits, and other conditions of employment. The department may require the employee to report at reasonable intervals on the employee's status and intention to return to work. The employee will be required to provide certification to the personnel department that he is able to return to work prior to returning to work.
 - (2) *Health benefits.* Health benefits are protected as follows:

- a. The county shall maintain coverage for the employee under the county's group health plan for the duration of family medical leave as provided to the employee prior to the granting of family medical leave. Such coverage is conditional upon the employee's contribution for other than individual coverage being paid prior to payroll deadlines. The employee will receive written notice of the terms of the payment of premiums during FMLA leave and a schedule of payment due dates. The obligation to maintain health insurance coverage stops if an employee's premium payment is more than 30 days late. The county will provide 15 days' notice that coverage will cease.
 - b. If the employee's failure to make the premium payments leads to lapse in coverage, the employee shall be restored to equivalent health coverage upon return to work as if the premium payments had not been missed without any waiting period or preexisting conditions.
 - c. The county reserves the right to recover the cost of health insurance provided to the employee while on FMLA leave should the employee fail to return to work voluntarily.
- (3) *Other benefits.* The employee may choose to continue certain other benefits as provided by the county while on family medical leave at the employee's own expense.
- (l) *Records.* Records shall be maintained as follows:
 - (1) The personnel director shall be provided with all documentation of family medical leave, such documentation to be maintained in the personnel department. Such records shall be maintained for no less than three years and must be available to the department of labor upon request.
 - (2) In addition to the records required by the Fair Labor Standards Act, the county must keep records of the following:
 - a. Dates FMLA leave is taken;
 - b. Hours of leave if less than a full day;
 - c. Copies of employee notices;
 - d. Documents describing employee benefits;
 - e. Premium payments of employee benefits; and
 - f. Records of any disputes.
 - (3) Records and documents relating to medical certifications, recertification or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files, and if ADA is also applicable such records shall be maintained in conformance with ADA confidentiality requirements, except that:
 - a. Supervisors and directors may be informed regarding necessary

accommodations;

- b. First aid and safety personnel may be informed, when appropriate, if the employee's physical or medical condition might require emergency treatment; and
- c. Government officials investigating compliance with FMLA or other pertinent law shall be provided relevant information upon request.

(m) *Interference with rights.* Rights under this section are protected as follows:

- (1) *Actions prohibited.* It is unlawful to interfere with, restrain, or deny any right provided by this section or to discharge or in any other manner discriminate against an employee for opposing any practice made lawful by this section.
- (2) *Protected activity.* It is unlawful to discharge or in any other manner discriminate against an employee because the employee does any of the following:
 - a. Files any civil action or institutes or causes to be instituted any civil proceeding under or related to this section.
 - b. Gives or is about to give any information in connection with any inquiry or proceeding relating to any right provided by this section.
 - c. Testifies or is about to testify in any inquiry or proceeding relating to any right provided under this section.

(n) *Enforcement.* A violation of or denial of leave requested pursuant to the Family and Medical Leave Act of 1993 is not a contested case and creates no right of grievance or appeal under the county grievance process or under the State Personnel Act where applicable. Violations are enforced by the U.S. Secretary of Labor.

(Code 1995, § 270.186)

Sec. 28-202. Civil leave.

All employees are expected to fulfill a citizens' duty to serve on juries when summoned. When a full time employee is called for jury duty or when a part time employee is called for jury duty such that his or her employment will be affected, a copy of the official letter summoning the employee will be submitted to the supervisor.

(a) *Compensation.* When an employee serves on jury duty, an election must be made to either take annual leave for those days served and retain jury payment or treat those days served as days worked and remit jury payment to the county.

(b) *Required attendance in court.* When an employee attends court in connection with official duties or is subpoenaed to appear as a witness, no leave is required.

Sec. 28-203. Military leave.

The County complies with all federal rules regarding military leave, including accrual of benefits.

(a) *Annual training.* Any employee, who is a member of any of the United States armed forces and is required to engage in field training, shall be granted a military leave of absence for the period of such training. This leave of absence, if taken instead of annual leave, shall be supplemented at a rate which is the difference between an employee's daily rate of pay and what

that employee receives during field training. This supplement shall continue up to a maximum period of 17 calendar days.

(b) *Active duty.* An employee who has been called to active duty in the United States military shall automatically be granted an indefinite leave of absence, without pay, for the duration of such active service.

(c) *Other benefits.* The board of commissioners from time to time may approve pay and benefits for employees who are called to active duty during national emergencies. Each employee must be reinstated without loss of privileges or seniority, provided the employee reports for duty with the county within 90 days following discharge from service, and provided the employee has reported an intent to report for duty 30 days prior to discharge from service.

(d) *Temporary hires.* Any person filling a position vacated by this subsection shall be given notice that the position being filled is temporary and will expire should the military employee return for employment.

Sec. 28-204. Leave during inclement weather; emergency closing

If county department operating hours are modified due to inclement weather or other emergencies, employees who are absent from work will be required to take leave only for those hours the department is officially open during their work schedule. Leave shall be taken according to the provisions set forth in this article.

Sec. 28- 205. Holidays.

The County provides eleven paid holidays as a benefit to its employees.

(a) *Paid holidays observed.* The following paid holidays and such others as the board of commissioners may designate shall be observed by county offices:

- (1) New Year's Day.
- (2) Martin Luther King, Jr.'s Birthday.
- (3) Good Friday
- (4) Memorial Day
- (5) Independence Day
- (6) Labor Day.
- (7) Thanksgiving Day and Thanksgiving Friday.
- (8) Christmas Day, according to the following schedule:

<i>When Christmas Falls On:</i>	<i>County Employee's Observe:</i>	<i>These Days:</i>
Sunday	December 22, 23 and 26	Thursday, Friday, Monday
Monday	December 25, 26 and 27	Monday, Tuesday, Wednesday
Tuesday	December 24, 25 and 26	Monday, Tuesday, Wednesday
Wednesday	December 24, 25 and 26	Tuesday, Wednesday, Thursday
Thursday	December 24, 25 and 26	Wednesday, Thursday, Friday
Friday	December 24, 25 and 28	Thursday, Friday, Monday
Saturday	December 23, 24 and 27	Thursday, Friday, Monday

All salaried employees occupying officially budgeted positions with benefits shall receive these holidays with pay providing the employee is on active pay status the scheduled working day

before and the scheduled working day after the holiday period. If an employee is retiring, and the day after is the first day of retirement, the retiring employee will be paid the holiday. Permanent employees working less than 40 hours per week receive pay for holidays on a pro rata basis.

(b) Observance of weekend holidays

If a holiday falls on Saturday, the holiday will be observed on Friday. If the holiday falls on Sunday, the following Monday will be observed as the holiday. If in the discretion of the county manager, the county's best interest will be served by observing the holiday otherwise, an announcement will be made at the beginning of the calendar year.

(c) Other faith-based holidays. Employees may wish to be away from work on certain days for faith based observances. Department heads should attempt to arrange the work schedule so that an employee may be granted annual leave when it is requested because the day is a faith based observance for that employee. Annual leave should be denied only when granting such leave would adversely affect services.

(d) Floating holidays. Floating holidays may be granted as follows:

(1) Employees who do not work regular 40-hour, Monday through Friday schedules, and who have work patterns that prevent them from taking regularly scheduled holidays, are provided eleven (11) holidays on an hour-for-hour basis annually at the beginning of the fiscal year. Holiday time will be prorated for employees whose employment begins after the first of the fiscal year or who separate before the end of the fiscal year.

(2) Department heads shall designate those employees to whom floating holidays shall apply. The department head is responsible for notifying personnel department which employees will receive floating holidays.

(3) Requests to take floating holidays shall be pre-approved in the sole discretion of the department head.

(4) Law enforcement employees and Communication Center employees are provided 88 holiday hours annually, which are designated at the beginning of the fiscal year. Holiday time will be prorated for employees whose employment begins after the first of the fiscal year or who separate before the end of the fiscal year.

(5) Employees with floating holidays who separate from employment with the county will be paid for any unused portion of prorated holiday time. If an employee has used more holiday time than the prorated amount, then the employee's final paycheck will be reduced proportionately.

(6) All unused floating holiday hours shall automatically transfer to sick leave at the end of the fiscal year.

(e) Emergency Medical Services Holidays. Employees who are required to work 12-hour shifts shall receive compensation for 88 hours of holiday time at straight time irrespective of whether the employee actually worked the holiday. Compensation will be paid in the pay period in which the holiday time occurs. Holiday time will not be paid in advance and is subject to all deductions from salary and wages.

Sec. 28-206. Retirement.

(a) Eligible employees are required to join the North Carolina Local Governmental Employees' Retirement System as a condition of employment. All eligible employees shall participate in social security coverage as provided by title II of the federal social security act as amended. There shall be no mandatory retirement age imposed on employees except in positions where a bona fide occupational qualification exists in compliance with the Age Discrimination in Employment Act Amendment, 29 USC 621-634.

Sec. 28-207. Law enforcement officers' additional benefits.

As mandated by G.S. 128-21 (11b) and 143 166.42, the county participates by special contribution in the Law Enforcement Officers Supplemental Retirement Income Plan-401(k) and provides for a special separation allowance for law enforcement officers. In the event the requirements of either statute change, the County reserves the right to change the benefit accordingly.

Sec. 28-208. Longevity award.

(a) *Eligibility.* The county longevity pay plan is intended to reward eligible employees under this article for faithful service on an annual basis.

(b) *Exceptions.* An employee will not be eligible to receive a longevity award when:

- (1) The employee separates from the county prior to the anniversary date.
- (2) An anniversary date occurs during a period of disability. A longevity award will not be made until the employee returns to work with the county.
- (3) An anniversary date occurs during a period of leave without pay. A longevity award will not be made until the employee returns to work with the county.

(c) *Distributions.* Longevity pay distributions shall be made in accordance with the following:

- (1) Longevity pay shall be made in a lump sum and is income for purposes of taxation. Longevity pay is not considered a part of annual base pay for classification and other pay purposes, but overtime for the past twelve (12) months is considered in the payment of longevity.
- (2) Longevity pay is awarded upon an employee's fifth anniversary and every year thereafter. Eligible prior service to the County counts towards meeting the five year requirement.
- (3) Longevity pay shall be distributed in accordance with the following schedule in the month the anniversary date occurs.

<i>Years of Service</i>	<i>Longevity Pay Rate (% of annual salary)</i>	<i>Years of Service</i>	<i>Longevity Pay Rate (% of annual salary)</i>
5	2.5	18	3.8
6	2.6	19	3.9
7	2.7	20	4.0
8	2.8	21	4.1
9	2.9	22	4.2
10	3.0	23	4.3
11	3.1	24	4.4
12	3.2	25	4.5
13	3.3	26	4.6
14	3.4	27	4.7
15	3.5	28	4.8
16	3.6	29	4.9
17	3.7	30 and over	5.0

Sec. 28-209. Employee education.

(a) *Intent.* The county educational reimbursement and leave policy is intended to assist its employees in their continuing educational efforts. Employees are encouraged to enhance their knowledge through educational and training experiences so that the public is served at an ever increasing level of excellence. All documentation of completed courses of study shall be forwarded to the personnel department to be included in the employee's personnel file upon receipt of degree or other certification. All educational leave must be approved by the department head prior to enrollment in a course.

(b) *Definitions.* The following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Educational leave means leave taken to enable a permanent employee to enroll in a course of study required to maintain current employment status (e.g. licensure or certification requirement) or which addresses training/instruction to upgrade knowledge and skills directly relating to current responsibilities.

Educational reimbursement means reimbursement for educational expenses incurred in a course of study in a field which is required to maintain current status (e.g., licensure or certification requirements) or which addresses training or instruction to upgrade knowledge and skills directly relating to current responsibilities. If the county assists with funding an advanced degree, the employee will be required to enter into a contractual agreement ensuring continued employment with the county, the duration of which will be mutually agreed upon by the department head and the employee. Any reimbursement by the county is intended to supplement and not take the place of other financial support.

(c) *Approval of educational leave by county manager.* When an employee pursues a course of study which requires the employee's continued absence from the workplace (e.g., a full semester or quarter), approval for such leave shall be made by the county manager with a recommendation from the department head and personnel director.

(d) Educational leave with pay. Educational leave with pay may be granted as follows:

(1) All educational leave must be approved prior to enrollment in the course.

(2) Leave with pay may not exceed actual time for classroom instruction in one course (the term "one course" is defined as a course with a maximum credit of five semester hours or the equivalent) during the semester or quarter of instruction and a reasonable amount of time for travel to and from the institution and the place of employment. The department head shall determine what is a "reasonable" amount of travel time, and whether the institution is located within a distance that could be reached in a reasonable amount of time off.

(3) A permanent employee on such leave shall continue to earn benefits to which permanent employees are entitled.

(4) Reasonable efforts must be made by the student/employee to schedule required courses outside the normal workday.

(5) No compensatory time or overtime pay shall be given for course work undertaken after the normal workday.

(e) *Educational reimbursement.* Procedures for educational reimbursement are as follows:

(1) The department head has the authority to approve all courses requested for reimbursement based upon appropriate documentation.

(2) Upon the successful completion of a county-approved course as outlined in subsection (d), the county may pay the costs of tuition, additional course fees, books or other course materials incurred by the employee.

(3) If the employee fails to maintain a “C” average in the course, he or she will be required to bear all costs, and to reimburse county for any money paid. The county will not provide any reimbursement for audited classes.

(4) Any request for reimbursement of costs must be approved by the department head in advance.

Sec. 28-210. Benefits for difficult to recruit positions.

When recruitment or retention difficulties exist, the county manager is authorized to negotiate, within federal and state law, special provisions for vacation and longevity pay benefits.

Sec. 28-211. Other benefit programs.

(a) The county offers a number of benefits designed to allow employees to meet their own health and welfare needs as well as those of their families. A number of approved payroll deduction plans are available which provide the employee with additional insurance, health and wellness benefits, and an enhanced ability to save toward retirement. Each employee is encouraged to make responsible decisions regarding present needs and future retirement stability.

(b) It is in the discretion of the county to determine whether to allow the addition of a benefit or service and to provide for payroll deduction. In determining whether to allow a payroll deduction, the following factors may be considered in total or combination:

- (1) The past performance, financial responsibility and reputation of the organization requesting or receiving such deduction.
- (2) Whether or not administration of the program would prove to be unduly burdensome to the county.
- (3) Whether a sufficient number of employees are interested.

(c) The personnel department shall maintain a current index and description of all benefits provided to employees under this article. Copies shall be provided to all employees subject to this article, and updates shall be provided annually at the time of benefits enrollment.

Sec. 28-212. County defense of employees.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Officer and employee mean present or past members of the board, officers, or employees and present or past appointed members of county boards, agencies, committees and commissions who might have claims or judgments entered against them.

(b) It shall be the policy of the county to defend its officers and employees acting in good faith within the scope of employment or duties against civil claims or judgments and to satisfy such either through the purchase of insurance or otherwise. Further, the county will not defend a claim or lawsuit or pay a claim or judgment when the officer or employee willfully:

- (1) Acts or fails to act because of fraud, corruption or actual malice.
- (2) Acts or fails to act as a result of or at a time when his self-indulgence substantially impairs his judgment (as, for example, an officer or employee who causes damage or injury while intoxicated or under the influence of drugs while on the job or participating in one's public capacity).

- (3) Acts or fails to act, except in emergencies or the existence of extenuating circumstances, directly contrary to instruction from his supervisor or directly contrary to advice of the county attorney.
- (4) Acts or fails to act in such manner as to constitute a criminal act (as for example, misappropriation of property or funds).

(c) The county manager shall determine whether a claim or suit filed against an officer or employee meets the requirements specified in this section for providing a defense for such officer or employee.

(d) The policies specified in this section shall not be applicable unless notice of the claim of suit is given to the board of commissioners through the county manager or county attorney prior to the time the claim is settled or civil suit is litigated and judgment is entered.

(e) This section shall not be interpreted in any way to relieve an insurance company of its obligations under any insurance policy to protect the interests of any insured under the policy or to reduce or eliminate the rights of any officer or employee of the county against any other party. Except as expressly stated, this section is not to be interpreted as a waiver of any right or defenses the county has or may have against any party; nor shall the adoption of this section be construed to waive the defense of governmental immunity.

Sec. 28-213. Safe workplace policy.

Catawba County is committed to making reasonable efforts to provide a safe working environment for its employees. It is expected that all county employees will adhere to this policy.

Sec. 28-214. Workplace violence.

The county has a zero-tolerance policy relating to the communication of threats, verbal harassment, physical assaults, or other forms of inappropriate behavior or unreasonably aggressive behavior will not be condoned. Such behavior is a conduct issue. Employees found in violation will be subject to appropriate discipline as provided for in articles I through VIII of this chapter. Other persons violating this policy may, at the discretion of the department head, be reported to the appropriate law enforcement authorities for criminal prosecution.

Sec. 28-215. Safety, including occupational safety and health act.

The County is committed to providing a workplace and environment that is as safe as practicable for employees and the public. Employees are required to comply with all safety rules and regulations at all times. Personal protective and safety equipment shall be used at all times. Employees who do not comply with these requirements are subject to disciplinary action. Supervisors who fail to enforce safety rules and equipment use shall be subject to disciplinary action.

Sec. 28-216. Accidents involving county equipment.

Accidents involving the use of county equipment or occurring on county property, whether or not they result in injury, shall be reported to the employee's immediate supervisor no later than the end of the work shift. If the supervisor is absent the employee shall call the next supervisor in the chain of command, or the personnel department. The employee and supervisor shall follow county policies and procedures for the reporting of accidents.

Vehicles. Employees involved in a vehicle accident while operating a county vehicle are required to contact the appropriate law enforcement agency.

Sec. 28-217. Reporting accidents and injuries.

- (a) A county employee who is injured in the performance of assigned duties shall immediately report the accident to his immediate supervisor and the Personnel Department.
- (b) The supervisor shall be responsible for ensuring an injury report is completed and submitted to the Personnel department within one business day of a reported injury.
- (c) State statutes require all accident reports to be filed within five days after knowledge of the accident.

Sec. 28-218. Merit awards.

- (A) Merit award funds may be designated by the board of commissioners through the annual budget process and shall be allocated to all departments in a manner described by the county manager. Only employees in permanent, budgeted positions working a minimum of twenty (20) hours per week are eligible to receive merit awards.
- (b) Eligible employees may be granted lump sum merit awards for meritorious performance. Merit awards may be granted to employees whose salary falls anywhere within the assigned salary range under the following conditions:
 - (1) Lump sum merit awards may be given at any time during the fiscal year and should follow incidents or periods of exceptional or outstanding job performance.
 - (2) Lump sum merit awards may be granted in any monetary increment provided that the total amount does not exceed seven (7%) percent of the employee's salary in any one fiscal year.
- (c) Merit awards shall be initiated at the departmental level upon recommendation of the department head. Such recommendations shall be accompanied by an explicit written justification setting forth the specific meritorious performance rewarded.

Sec. 28-219— 28-243. Reserved.

ARTICLE VII. CONFLICT OF INTEREST AND POLITICAL ACTIVITIES

Sec. 28-244. Applicability.

This article shall be applicable to all county employees subject to this chapter and, where applicable, to the county's public officials.

Sec. 28-245. Political activity restricted.

- a. As noted in G.S. 153A-98, the purpose of this section is to ensure that county employees are not subject to political or partisan coercion while performing their job duties, to ensure that employees are not restricted from political activities while off duty, and to ensure that public funds are not used for political or partisan activities.

It is not the purpose of this section to allow infringement upon the rights of employees to engage in free speech and free association. Every county employee has a civic responsibility to support good government by every available means and in every appropriate manner. Employees shall not be restricted from affiliating with civic organizations of a partisan or political nature, nor shall employees, while off duty, be restricted from attending political meetings, or advocating and supporting the principles or policies of civic or political organizations, or supporting partisan

or nonpartisan candidates of their choice in accordance with the Constitution and laws of the State and the Constitution and laws of the United States of America.

b. The following is the policy of the County:

(a) Political activity by an employee during working hours, while in service to the county, or within the scope of county employment, is strictly prohibited.

(b) The use of county supplies, equipment, communications equipment, including Internet and email, is strictly prohibited.

(c) County employees are protected from political interference in performing the duties of their job.

(d) No employee while on duty or in the workplace may

1. Use his official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for political office; or

2. Coerce, solicit, or compel contributions for political or partisan purposes by another employee.

3. No employee may be required as a duty or condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes.

c. Employees as candidates for office. To become a candidate means that an employee has taken some formal or public action that may lead to being elected or appointed to a political office. It means the employee is seeking political office and for purposes of this ordinance, an employee will be recognized as becoming a candidate when

(a) the employee forms any kind of fundraising committee or campaign committee, or

(b) the employee announces through the media or mail that the employee intends to become a candidate, or

(c) the employee files an official document, such as a notice of candidacy, with any Board of Elections, or

(d) anyone else does any of the acts described above on the employee's behalf or starts a write-in campaign for the employee and the employee refuses to disavow such act or otherwise make the employee's intentions clearly known through an appropriate public announcement. Employees are required to notify their department head prior to such events taking place.

Being a member of the board of commissioners is inherently in conflict with being an employee with the county. It is divisive and may destroy the public trust between the existing commissioners and county management. Therefore, on the day an employee becomes a candidate for county commissioner, said employee will take a leave of absence.

Sec. 28-246. Gifts and favors.

(a) Receiving or giving of gifts or favors is not in the best interest of the county. Therefore, no county employee shall:

(1) Accept any gift, favor or thing of value that may tend to influence them in the discharge of their duties.

(2) Grant, in the discharge of their duty, any improper favor, service or thing of value.

(b) The following gifts are considered acceptable under GS 132-32 and are the only exceptions:

(1) Honorariums for participating in meetings.

(2) Advertising items or souvenirs of nominal value.

(3) Meals furnished at banquets.

(4) Contractor donations to professional organizations to which local government officials and employees may belong, including participation in scheduled functions of such an organization.

(5) Customary gifts from friends and family members, as long as the family or friendship relationship, not the desire to do business with the local government, is the motivating factor for the gift.

(c) Legitimate political contributions to candidates for elected office shall not be considered gifts. Gifts to a department or the county are acceptable if shared within the organization and if deemed appropriate by the county manager. Such gifts are considered the property of the county. A nominal gift to an employee from a nonvendor in recognition for a service well done is acceptable if deemed appropriate by the county manager.

(d) No county employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

Sec. 28-247. Duty to disclose.

Any county employee having knowledge of or a reason to know of a potential personal interest or upon the discovery of a potential personal interest, has an affirmative duty to disclose such personal interest to the department head.. Any attempts by any person, firm or corporation to influence the decision of a county employee with regard to county business must be reported to the county manager.

Sec. 28-248. Violations.

Any violation of this article shall subject an employee to disciplinary action.

Secs. 28-249--274. Reserved.

ARTICLE VIII. STATE AND FEDERAL COMPLIANCE.

Sec. 28- 275. Employment policy against unlawful workplace harassment

(a) **Catawba County has a zero tolerance policy against any form of unlawful workplace harassment**, including harassment defined as sexual, race, creed, religion, national origin, age, color, or disability. No employee, regardless of position, may engage in conduct that falls under the definition of unlawful workplace harassment. This is generally defined as unwelcome or unsolicited comments or conduct based upon race, sex, creed, religion, national origin, age, color, or disability as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo situation. All employees have the expectation of working in an environment free from unlawful harassment and retaliation. Indifference by supervisors and other employees with authority will not be condoned either. All complaints made by employees will be investigated, and appropriate remedial or disciplinary action taken on complaints that are substantiated.

(b) Reporting a complaint of any kind is difficult, since complaints generally involve a supervisor or coworker. However, an employee who believes that he may have a complaint of harassment is advised to file the complaint directly with the personnel director. Any department director or supervisor who receives a complaint of harassment shall report the matter to the personnel director immediately. Complaints will be investigated by the personnel director or, when an absence occurs or when a conflict exists, a designee.

(b) Employees who allege unlawful workplace harassment must, within 15 calendar days of the alleged harassing action, submit a written complaint to the personnel director so a thorough investigation can be conducted and appropriate action taken.

- (c) Confidentiality and the dignity of those involved in a complaint is important. Considering the sensitive nature of harassment complaints, every effort will be made to keep the complaint and the name of the employee confidential and on a need-to-know basis. However, due to the nature of conducting an investigation, confidentiality cannot be guaranteed. Reports, including the final report, will be distributed only to persons having a need or right to know. Employees involved in any investigation, whether as complainant or alleged harasser, witness or investigator, should keep all discussions or communications confidential.
- (d) The County has 30 days to take remedial action, if any, in response to a complaint. Otherwise complainants in mental health, public health, or social services have the right to appeal directly to the office of administrative hearings and the state personnel commission. Complainants in other departments may appeal to the county manager through the county grievance procedure as set forth in this section.
- (e) Investigation files shall remain separate and apart from personnel files. Neither the claimant nor the alleged harasser have a right to the contents of these files. Any personnel action, such as discipline, resulting from an investigation, shall be filed in the employee's personnel file. The contents of these files are protected according to section 28-303 of this Code.
- (f) In furtherance of this policy, the county prohibits any retaliatory action of any kind taken by an employee of the county against any other employee because that person made charges, testified, assisted or participated in any manner in a hearing, proceeding or investigation of workplace harassment or employment discrimination.
- (g) Grievances. It is the intent of the county government to provide a system of employee appeals or grievances which is substantially equivalent to the system developed and maintained by the state under G.S. §26-1 et seq. In order to maintain harmonious and cooperative relationships between the county and its employees, it is the policy of the county to provide for settlement of complaints through an orderly complaint procedure free from interference, discrimination, or reprisal. The complainant shall file all correspondence regarding grievances with the Personnel director. Grievances which are not received within the time allowed as prescribed in this subsection or which are not filed with the Personnel director as prescribed in this subsection shall be dismissed.
 - (1) Any employee or former employee who has filed a workplace harassment complaint has the right to appeal the following:
 - (a) Remedial actions taken by the County as a result of a workplace harassment complaint. Disciplinary actions which are a part of remedial action may only be grieved by the recipient of the disciplinary actions as provided for under section 28-123.
 - (b) Failure by the County to investigate a workplace harassment complaint and respond to the complaint within 30 calendar days.
 - (2) Any employee who testified, assisted or participated in any manner in a hearing, proceeding or investigation of workplace harassment or employment discrimination has the right to appeal any retaliatory action of any kind taken by an employee of the County against them because of their participation.
 - (3) Active employees shall be allowed one hour from regular duties to prepare a grievance.
 - (4) An employee has the right to retain legal counsel at the expense of the employee.
 - (5) Advisory services pertaining to procedures are available from the Personnel Director.
 - (6) In order that all employees may be able to obtain further consideration of their problems, in a harassment complaint, it is essential that two-way communication occur, and

management shall make every effort to resolve the problem or correct the misunderstanding prior to the grievance procedure.

- (7) An employee must file a written appeal within fifteen (15) calendar days after an appealable action has occurred. The employee shall attach all information and supporting documentation to the appeal. The notice of appeal must be received by the Personnel director before 5:00 on the fifteenth day.
- (8) The county manager must contact the employee within seven (7) calendar days to set a date, place and time for oral presentation of the grievance. Unless the employee agrees otherwise, the hearing must be held within seven calendar days from the date the employee filed the appeal with the personnel director.
- (9) The county manager shall render a decision in writing to the employee or former employee who filed the grievance within seven days of the hearing. However, if the county manager needs more time to obtain facts he may advise the parties involved. The county manager's written decision shall contain the employee's and the county's official statements and the county's official conclusions. The written decision shall also contain notice of further appeal rights if any.
- (10) Once a decision is reached, the procedure is ended and the documents are filed in the personnel department.
- (11) The decision of the county manager is final, except that employees and former employees of the departments of social services, public health and mental health who are subject to the state personnel act will have 30 days to appeal a decision of the county manager to the state personnel commission. Appeals to the state personnel commission must be filed in writing with a copy furnished to the personnel director. Employees should consult with the state personnel commission regarding the state's appeal procedures.

Sec. 28-276. Americans with Disability Act.

- (a) It is the policy of the county to comply with the relevant and applicable provisions of the Americans With Disability Act (ADA). The county will not discriminate against any qualified employee or applicant with respect to any terms, privileges or conditions of employment because of a person's physical or mental disability. The county will also make reasonable accommodations wherever necessary for employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the duties and assignments connected with the job and provided that any accommodations made do not require significant difficulty or expense.
- (b) Employees or applicants who may need an accommodation, whether temporary or permanent, shall contact the personnel director for assistance.

Sec. 28-277—302. Reserved.

ARTICLE IX. RECORDS AND REPORTS

Sec. 28-303. Confidential information.

- (a) No county employee or official shall use or disclose information gained in the course of employment or by reason of position for purposes of advancing a financial or personal interest, a business entity in which there is an ownership interest, a financial or personal interest of a household member or a family member as defined in section 28-154(b), or any other private or political interest.

(b) No employee or official shall disclose confidential or privileged information concerning personnel matters, property, contract negotiations, litigation-related matters, or other affairs of the county which are afforded protection under state law.

Sec. 28-304. Personnel records; access to public information; privacy act.

- (a) Personnel records are necessary for the proper administration of the county personnel system and will be maintained by the personnel director. The employee's personnel file is maintained by the personnel department. The personnel records custodian shall be the personnel director, whose responsibility it is to maintain a file for each county employee.
- (b) The personnel director may designate an individual or individuals within the personnel department to act as records custodian. The records custodian is responsible for the proper maintenance and documentation of personnel records in accordance with state and local law.
- (c) The county shall maintain in each employee's personnel record only information that is necessary and relevant to accomplishing legitimate personnel administration needs. It is the responsibility of the personnel director to assure the sanctity and authenticity of every employee's personnel file.
- (d) As required by G.S. 153A-98 and 160A-168, any person may have access to public information as defined by this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public record as the county may adopt. Any person denied access to any record shall have a right to compel compliance with this subsection by application to a court for writ of mandamus or other appropriate relief.
- (e) Departments shall forward all documents that are a part of a personnel file to the personnel director.
- (f) For purposes of this article, an employee's personnel file consists of any information gathered by the county with respect to that employee. This would include but would not be limited to information relating to an employee's application for employment, selection for a vacant position, performance, promotions, demotion, transfers, suspension, and other disciplinary actions, evaluation forms, salary, any applicable information relating to employment, or termination of employment.

Sec. 28-305. Public and confidential information defined.

- (a) The following information regarding each county employee is public information:
 - (1) Name.
 - (2) Age.
 - (3) Date of original employment or appointment to county services.
 - (4) Current position/title.
 - (5) Current salary.
 - (6) Date and amount of most recent change in salary.
 - (7) Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification.
 - (8) Office to which the employee is currently assigned.
- (b) All information contained in a county employee's personnel file, other than the information listed in subsection (a) of this section, will be maintained as confidential in accordance with the requirements of G.S. 160A-168 and shall be open to public inspection only in the following instances:

- (1) The employee or a duly authorized agent may examine all portions of the employee's personnel file, except:
 - (a) Letters of reference solicited prior to employment; and
 - (b) Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient.
- (2) A licensed physician designated in writing by an employee may examine the employee's medical record.
- (3) A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- (5) An official of any agency of the state or federal government or any political subdivision of the state may inspect any portion of a personnel file when such information is deemed by the person having custody of the file to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.
- (6) An employee may sign a written notarized statement authorizing release of other specified information to prospective employers, educational institutions, or other specified persons.
- (7) The county manager, with the concurrence of the board of commissioners, may inform any persons of the employment or nonemployment, promotion, demotion, suspension, or other disciplinary action, reinstatement, transfer, or termination of a county employee and the reasons for that personnel action. Before releasing the information, the Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of county services or to maintaining the level of quality county services. A record shall be maintained in the personnel file and as part of the public record in the office of the clerk to the board.
- (8) Even if considered part of an employee's file, the following information may be withheld from an employee:
 - (a) Testing or examination material used solely to determine qualification when disclosure would compromise testing.
 - (b) Investigative reports concerning possible criminal actions against the employee until the investigation is completed.
 - (c) Information which might identify undercover officers or informers.
 - (d) Notes, preliminary drafts, and internal communications unless used for official personnel decisions.

State law reference: Penalty for permitting illegal access to confidential file G.S. 153A-98

Sec. 28-306. Request and review procedure.

(a) The records custodian will consult with a staff attorney when a request to review or copy personnel file materials of an unusual nature are received. All requests for personnel records information must be made in writing to the records custodian.

An employee may sign a written letter of consent authorizing release of confidential information to prospective employers, educational institutions or other specified persons.

(b) If a request is determined by the records custodian to be for public information, the custodian

shall, within five working days, provide such public information.

(c) Only individuals contemplated by G.S. § 153A-98 as set forth in § 270.160 shall have standing to receive confidential personnel information. Such requests shall be made in writing by the individual having standing and shall be made on a standard "Catawba County Disclosure of Confidential Information" form, such form to contain the signature of the requesting party. The requesting party shall not disclose such confidential information. The custodian shall within five working days provide access to such information.

As required by G.S. 153A-98 and 160A-168 any person may have access to public information as defined by this subchapter for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the county may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

Sec. 28-307. Remedies and objections.

An employee who objects to material in a personnel file may forward to the personnel director a request to place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with the following procedure:

(A) A written request containing the employee's name and identifying the objectionable material, with supporting documentation, shall be submitted to the Records Custodian.

(B) The Records Custodian shall notify the County manager and the appropriate supervisory personnel of the nature of the complaint and shall within five working days make a recommendation regarding the disposition of the complaint to the County manager.

(1) If the complaint is found to be valid the material shall either be corrected and returned to the file or removed from the file and destroyed.

(2) If the complaint is found to be invalid the material shall remain in the personnel file and a copy of the employee's written objection shall be placed in the personnel file.

Sec. 28-308. Destruction of county records.

No public official may destroy, sell, loan or otherwise dispose of any public record, except in accordance with G.S. § 121-5(B), without the consent of the state department of cultural resources.

Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys a public record, will be charged with having committed a misdemeanor, and upon conviction, will be fined not less than \$10 or more than \$500, for each public record so altered, defaced, mutilated, or destroyed, as provided in G.S. § 132-3.

Sec. 28-309 Privacy policy

As required by G.S. 153A-98 and 160A-168, any person may have access to public information as defined by this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the county may adopt. Any person denied access to any record shall have a right to compel compliance with this article by application to a court for writ of mandamus or other appropriate relief.

Access to, or inspection and copying of employee personnel files, files of clients, and other information created and maintained by county in the ordinary course of business, are controlled by federal, state and local laws, ordinances and regulations. Any violation is subject to discipline.

Secs. 28-310--28- 335. Reserved.